

BYLAWS
of the
TOWN of ACTON

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BYLAWS

of the

TOWN of ACTON

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(Voted 3/10/69- Article 1)

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Last Amended

11/14/89

11/14/89

(Voted 4/2/01- Article 43)

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(Voted 4/2/85 - Article 4)

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(Voted 4/22/85 - Article 28)

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*** IN SEPARATE BOOK AT PLANNING BOARD***

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(Voted 4/11/87- Article 45))

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(Voted 4/11/87 - Article 43)

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(Voted 11/28/90 - Article 4)
(Amended 4/1/02 -Article 31)
(Amended 4/7/03 -Article 35)

CHAPTER Q: FINANCIAL CONDITION REPORTS

(Voted 4/4/95 - Article 2 & 3)

**CHAPTER R: GROUND WATER CLEANUP
STANDARDS BYLAW**

(Voted 4/10/97 - Article 40)

CHAPTER S: COMMUNITY PRESERVATION

(Voted 4/2/02-Article 33)

CHAPTER A

TOWN MEETING

A1. Date of Town Election

The Annual Town Meeting for the election of Town Officers shall be held on the Tuesday immediately preceding the first Monday of April in each year. The terms of elected Officers shall be as stated in the Town Charter. The term of each such Officer shall commence upon the final adjournment of the Annual Town Meeting at which he/she is elected and shall extend until the final adjournment of the Annual Town Meeting which his/her successor is elected.

A2. Date of Town Meeting

All business of the Annual Town Meeting, except the election of such Officers and the determination of such matters as by law are required to be determined at such meeting, shall be considered at an adjournment thereof, which adjournment shall be held on the first Monday in April, following the Town Election at such hours and at such place as decided by the Board of Selectmen.

A3. Distribution of Warrant

The Selectmen after drawing a warrant for a town meeting shall immediately transmit a copy of such warrant to each member of the Finance Committee.

A4. Posting of Warrant

At least fourteen days before the day appointed for a town meeting, the Board of Selectmen shall cause an attested copy of the warrant therefor to be posted by the Constable of the Town, in not less than six (6) public places in the Town designated by the Selectmen.

A5. Vote counts by Moderator

If a two-thirds, four-fifths or nine-tenths vote of a town meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the clerk; provided, however, if a two-thirds vote of a town meeting is required by statute, the Town has authorized the Moderator not to require a count and the clerk shall record the vote as passed by a two thirds margin; and provided, further, that if the vote is unanimous, a count need not be taken, and the clerk shall record the vote as unanimous.

A6. Reconsideration of Vote

a) Any voter shall be permitted to move reconsideration of a vote taken at town meeting, subject to the limitation or exceptions set forth in succeeding subsections of this bylaw.

b) A motion to reconsider any vote taken at the meeting shall require a 2/3 vote if made at the same session at which the vote to be reconsidered is taken. If made at any adjourned session of the meeting, a 3/4 vote shall be required and notice of the intention to move such reconsideration shall be given in writing to the Town Clerk at least eight (8) hours before the opening of such adjourned session and formal notification bearing the seal of the Town shall be posted by a Constable at the locations designated by the Selectmen for posting the warrant at least six (6) hours before the opening of such adjourned session.

c) This bylaw does not limit the number of times that reconsideration of a vote may be moved except that at a single session such reconsideration may be moved only once.

d) A motion to reconsider a vote is debatable if a motion originating the vote was debatable.

e) The foregoing provisions shall not, however, prevent the Board of Selectmen from moving reconsideration at any time when in their unanimous judgment reconsideration is in the best interests of the Town.

CHAPTER B

TOWN AGENCIES & OFFICERS

B1. Structure of the Finance Committee

There shall be a Finance Committee consisting of nine (9) voters of the Town. The committee shall be appointed by the Moderator in the following manner: three (3) members shall be appointed for a term of one (1) year; three (3) members shall be appointed for a term of two (2) years; and three (3) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be for a term of three (3) years.

B2. Restriction on Finance Committee Members

No member of the Finance Committee shall serve on any other standing committee having to do with the expenditure of town funds.

B3. Duties of the Finance Committee

The Finance Committee shall consider any and all municipal questions for the purpose of making reports and recommendations. Without restricting the general intent of the foregoing, the Finance Committee shall include in its duties the review of and recommendations concerning the budget for the annual meeting, the review of and recommendations concerning any other matter of a financial nature arising at the annual meeting or at any special meeting, and the preparation of long range fiscal plans for the Town.

B4. Procedure of the Finance Committee

Before making recommendations concerning the budget for the annual meeting, as prescribed in Section 3 of this Article, the Finance Committee shall hold one (1) or more hearings with the Board of Selectmen.

B5. Appointment of the Police Chief

The Town Manager shall appoint a Chief of Police and shall have the general supervision over the Police Department.

B6. Power of the Police Chief

The Chief of Police shall be head of the Police Department. Subject to the supervision and direction of the Town Manager, the Chief of Police shall have control of the department, its officers and members, and special police officers when in the service of the department.

B7. Duties of the Police Department

The Police Department shall be governed by the rules and regulations and perform such duties as are prescribed by the Town Manager or by the bylaws of the town.

B8. Authority of the Police Department

The Police Department shall be subject to all the rules and regulations and perform all duties which are now or hereafter prescribed by law, by the bylaws of the Town, by the Town Manager, or the rules and regulations of the Police Department. Any member of the department may be removed or suspended or otherwise disciplined by the Town Manager, as provided by law.

B9. Appointment of the Fire Chief

The Town Manager shall appoint a Chief of the Fire Department, who may be removed for cause. The Chief of the Fire Department shall be head of the fire department. Subject to the supervision and direction of the Town Manager, the Chief of the Fire Department shall have control of the department, its officers and members, and any other personnel when in the service of the department. (This is a standing appointment).

B10. Duties of the Fire Department

The Fire Department shall be governed by the rules and regulations of the Board of Selectmen and perform such duties as are prescribed by the Town Manager and by the bylaws of the Town. Any member of the department may be removed or suspended or otherwise disciplined by the Town Manager, as provided by law.

B11. Duties of the Board of Health

The Board of Health shall make and publish from time to time such regulations as it deems necessary for public health and safety, and shall cause them to be printed in form for public distribution.

B12. Reporting by the Board of Health

The Board of Health shall annually make a report to be printed in the annual town report, showing in detail statistics of the health and sanitary condition of the Town with recommendations for its improvement, together with a full and comprehensive statement of its work during the previous year. Such report shall also contain a detailed statement of the amount expended by the Board during the year.

B13. Dumping contrary to Board of Health Rules and Regulations

No person unless having the authority so to do shall dump or deposit any ashes, rubbish, refuse, offal, or decayed animal or vegetable matter on any public or private land, contrary to the rules and regulations of the Board of Health.

B14. Hogs under the jurisdiction of the Board of Health

All persons keeping hogs within the limits of the Town shall be subject to all rules and regulations of the Board of Health.

B15. Structure of the Public Ceremonies and Celebrations Committee

There shall be a Public Ceremonies and Celebrations Committee of nine (9) members to be appointed by the Board of Selectmen and whose powers, duties and responsibilities are as hereinafter provided.

B16. Terms of Public Ceremonies and Celebrations Committee members

The terms of the committee members shall be for three (3) years. The terms of three (3) members shall expire each year.

B17. Authority of the Public Ceremonies and Celebrations Committee

The committee shall have complete charge under the direction of the Town Manager of all Public Ceremonies and Celebrations held in the Town and in which the Town participates unless the Town shall by vote of any regular or special town meeting provide otherwise.

B18. Duties of the Public Ceremonies and Celebrations Committee

Immediately following the appointment of the members of this committee, they shall organize and elect a chairman and clerk. The clerk of said committee shall there upon notify the Town Manager of the aforesaid action. Said committee may reorganize its officers at any time and the clerk shall notify the Town Manager accordingly. The concurrence of a majority of the committee shall be necessary to make any act of the committee effective.

B19. Sub-committees of the Public Ceremonies and Celebrations Committee

The committee, with the approval of the Town Manager, shall have the authority to appoint sub-committees for special events.

B20. Members compensation of the Public Ceremonies and Celebrations Committee

The members of the committee shall serve without compensation.

B21. Council on Aging

There shall be a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the Commission on Aging established under General Laws, Chapter 6, Section 73.

CHAPTER C

BYLAWS: GENERAL PROVISIONS

C1. Repeal of Bylaws

These bylaws may be repealed or amended at any annual town meeting, or at any other town meeting specially called for the purpose, provided an article or articles for such purpose has been inserted in the warrant for such meeting.

C2. Date of Effectiveness

These Bylaws shall go into effect upon their acceptance by the Town and the fulfillment of all legal requirements for their effectiveness.

C3. Fine for Violation

Except as otherwise provided specifically in any article of these Bylaws, any person violating any of these Bylaws shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense.

CHAPTER D

ADMINISTRATIVE PROVISIONS

D1. Safekeeping of Records

All bonds, contracts, and written agreements pertaining to the several departments shall be placed for safe keeping in the custody of the Town Clerk, except as otherwise provided by law.

D2. Inspector of Gas Piping and Gas Appliances

The Town Manager shall in each year appoint an inspector of gas piping and gas appliances in buildings, whose duty shall be the enforcement of the rules and regulations adopted by the Board established by General Laws, Chapter 25, Section 12H.

D3. Receipt of Fees

All fees received by any Town officer or employee in his official capacity shall be paid into the Town Treasury.

D4. through D8. PERPETUAL CARE BYLAW

D4. *The Town will accept from any person a sum of money, not less than \$100.00, the income therefrom to be used for the annual care and maintenance of such lot or lots in a public cemetery of the Town as the person shall designate, and for the care, maintenance and improvement of the cemetery in which such lot or lots are located. Such deposit shall be a perputual fund and will be pooled with other deposits of a similar nature that are received to comprise the Acton Cemetery Perpetual Care Fund.*

D5. *The Town Treasurer shall receive all sums of money paid in accordance with the preceeding section and shall give a proper receipt of the Town therefor. He shall keep the Cemetery Commissioners regularly informed as to the cemetery lots for which perpetual care funds have been established. He shall annually, at such time as the Cemetery Commissioners request, pay over to said Commissioners all income earned on such sums. Such income shall be judiciously and economically expended by the Cemetery Commissioners, first, for the care and maintenance of the lot or lots, including the monuments and markers thereon, designated by the donor and second, for the care, maintenance and improvement of the cemetery in which such lot or lots are located.*

D6. Said Cemetery Commissioners shall faithfully apply all amounts received by them in accordance with the provisions of this bylaw.

D7. The following form of receipt shall be given in behalf of the Town by its Treasurer to persons depositing money under the provisions of this bylaw.

"The Town of Acton" acknowledges receipt of \$_____ from (A.B.) as a perpetual fund, the income of which is to be used for the maintenance and repair of the following lots in the cemeteries and for the maintenance, care and improvement of the cemetery in which such lots are located. (Insert description of lots.) This money is received and shall be applied in accordance with a bylaw of the Town adopted November 28, 1977.

D8. This bylaw shall apply to all sums deposited with the Town for the perpetual care of new cemetery lots after its adoption. The provisions of the bylaw adopted March 25, 1901, as amended, shall continue to apply to all sums previously deposited with the Town under its provisions.

D10. Sewer Assessment Bylaw

D 10 Sewer System

1. Allocation of Cost of Sewer System. The entire cost of laying out, constructing and operating a system for the collection, treatment and disposal of sewage for all or any part of the Town shall be borne by the land benefited by such system, in accordance with the following provisions , except that costs incurred in connection with the planning and construction of the sewer collection and treatment facility for Middle Fort Pond Brook Sewer District, for archeological studies, paving of roads, engineering peer reviews, police details, traffic studies, and land acquisition, amounting in total to \$1,336,600, shall be allocated to taxpayers at large; and except for such costs as the Town Meeting, by a two-thirds vote, at a town meeting subsequent to this November 15, 1999 Special Town Meeting, shall allocate to taxpayers at large.

2. Assessment by Uniform Unit Method.

a. The Town, acting through its Sewer Commissioners, shall assess the owners of all land abutting any way in which there is a public sewer line constructed by the Town, by the uniform unit method, as authorized by G.L. c. 83 §15.

CHAPTER D ADMINISTRATIVE PROVISIONS CONTINUED

b. The Sewer Commissioners shall establish sewer assessment units, as follows:

- (i) *The owner of land used for a single family residence shall be assessed on the basis of one sewer unit. The owner of undeveloped land zoned for single family residential use shall be assessed on the basis of the maximum number of single family residences which may be constructed on such land as of right under the zoning requirements then in effect, without approval of the further subdivision of such land under the Subdivision Control Law.*
- (II) *The owner of land used for multi-family residential use, shall be assessed on the basis of .67 times the number of dwelling units presently existing on such land, provided each unit has fewer than three bedrooms as defined by Title V. Vacant land zoned for multi-family use shall be assessed on the basis of .67 times the maximum number of units which can be constructed as of right under the zoning then in effect, without approval of further subdivision of such land under the Subdivision Control Law. Multi-family units with three or more bedrooms shall be assessed on the basis of one sewer unit per dwelling unit. Each owner of a condominium or cooperative dwelling unit in a multi-family residential building shall be assessed only for his or her dwelling unit.*
- (iii) *The owner of land used or zoned for business use, including land in the Village, Office, Business districts, except land in such districts actually used for residential or other purposes, shall be assessed on the basis of a number of sewer units calculated by multiplying the maximum floor area ratio (FAR) permitted as of right under the zoning requirements then in effect times the lot area and dividing the result by 4000, in accordance with the following formula.*

$$\text{Number of Sewer Units} = \frac{\text{Maximum FAR} \times \text{Lot Area}}{4000}$$

CHAPTER D **ADMINISTRATIVE PROVISIONS** CONTINUED

- (iv) *The owner of land used or zoned for industrial use shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.*

(v) *The owner of land used or zoned for other purposes not specified in the foregoing sections, including , but not limited to, institutional and non-profit uses, shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.*

3. **User Fees for Land Not Subject to Assessment.** *The Sewer Commissioners shall establish just and reasonable fees for the use of the public sewer system by the owner of any land, including public land, not liable to assessment, which fee shall be based on the avoided cost of construction of sewage disposal facilities to serve such land.*

4. **Assessment Rates.** *The Sewer Commissioners shall establish the assessment rate for land within the Middle Fort Pond Brook sewer area, based on total construction costs for the sewerage system serving such area, including all costs of land acquisition, engineering and design, financing and construction, divided by the total number of existing and potential sewer units within such area. In establishing such rate, the Sewer Commissioners shall apportion the total construction costs between costs required to serve the Middle Fort Pond Brook area and costs required to serve future areas within the Town and shall assess owners within the Middle Fort Pond Brook area only such costs as are reasonably necessary to serve such area, after deducting any construction costs to be recovered pursuant to Section 3 from users of the system not subject to assessment.*

5. **Sewer Privilege Fees.** *The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, § 17 to cover costs of construction of common sewers and other facilities required to serve land not previously served by the sewer system and not previously assessed to the owner of such land. Any such fee shall be reduced to the extent the landowner pays such expenses, in accordance with G.L. c. 83, § 22.*

CHAPTER D **ADMINISTRATIVE PROVISIONS** CONTINUED

6. **Annual User Fees.** *The Sewer Commissioners may from time to time establish just and equitable annual user charges to cover the cost of maintenance, repairs and operation of the sewer system.*

7. **Rules and Regulations Concerning Sewer Assessments.** *The Sewer Commissioners may adopt such reasonable rules and regulations with respect to*

the calculation of sewer assessments or fees as may be necessary or appropriate to implement the provisions of this bylaw.

8. Applicability of General Laws. *Except as provided herein or in any special legislation applicable to the Town, the provisions of the General Laws relative to the assessment, apportionment, division, re-assessment, abatement and collection of sewer assessments and to liens therefore and interest thereon shall apply to assessments made hereunder.*

9. Rules and Regulations Concerning Use of Sewer System. *The Sewer Commissioners may establish rules and regulations concerning the use of the public sewer system, including but not limited to, rules and regulations prohibiting the deposit of any harmful or deleterious substance into the system, for regulating connections to the system and establishing civil penalties for violation of such rules.*

D14. Disposal of Personal Property

Any board or officer in charge of a department of the Town may, with the approval of the Board of Selectmen, transfer to another town department or transfer by sale, any personal property of the Town within the possession or control of the department which has become obsolete, or is not required for further use by the department; provided, however that any such property which is to be disposed of, the aggregate value of which, in the opinion of the Board of Selectmen, exceeds \$1,000.00, shall only be sold following public bid in a manner prescribed by said Board of Selectmen.

CHAPTER E

GENERAL PUBLIC REGULATIONS

E1. Street Numbering

Street numbers shall be provided for each dwelling, each business building and each industrial building by the owner of such structure in accordance with the following:

a. The number shall be at least three (3) inches in height and shall be clearly visible from the street or roadway upon which the building faces. The numbers shall be placed on the structure itself or on a suitable support near the main entrance to the structure.

b. The numbers shall be those which have been in current use, except as provided in clause (c) below. If the structure has not been previously assigned a street number, it shall be the owner's responsibility to obtain such a number from the engineering department of the Town during regular office hours.

c. If a survey of street numbering is completed and if changes in street numbering are required in order to implement that survey, then the owner of the affected structure shall make the required changes within three (3) months of receiving proper notification. Numbers shall be installed as outlined in clause (a) above.

d. The enforcement of this Bylaw shall be in the jurisdiction of the Chief and Deputy Chief, Fire Department. Failure to comply with this regulation shall subject the offending property owner to a fine not exceeding ten dollars (\$10.00).

E2. through E3. Discharge of Firearms

E2. *No person shall fire or discharge any firearm within the limits of any park, playground or other public property except with the consent of the Board of Selectmen, nor discharge any firearm on any private property except with the consent of the owner or legal occupant thereof.*

E3. *This Bylaw shall not apply to lawful defense of life or property, nor to any law enforcement officer acting in the discharge of his duties. Enforcing person - regular police officer - Fine \$25.00.*

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

E4. Abandoned Wells

The owner or owners of land whereon is located an abandoned well or a well in use must either provide a covering for such well capable of sustaining a weight of three hundred pounds or fill the same to the level of the ground. The penalty for the violation of this Bylaw shall be a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

E5. Excavations

The owner or owners of any land which has been excavated in any way shall, within five (5) days following receipt of written notice from the Selectmen that the Selectmen have determined that said excavation constitutes a hazard to public safety, erect barriers or take other suitable measures to protect persons from harm therefrom. Failure to comply herewith shall be subject to prosecution under the provisions of Section 21 (19) of Chapter 40 of the General Laws and the penalty for violation hereof shall not be more than two hundred dollars (\$200.00).

E6. through E9. Unregistered Motor Vehicles

E6. Unregistered motor vehicles which are unfit for use, permanently disabled or otherwise inoperative due to dismantling or other causes shall not be stored, parked or placed upon land in the Town unless the same shall be within a building or in an area unexposed to the view of the public and abutting residents or shall be in an area properly approved for the keeping of same by licensed junk dealers or automobile dealer.

E7. Owners or persons having control of the land on which such storing, parking or placing of unregistered motor vehicles occurs shall, within five (5) days following receipt of a notice from the Selectmen, remove or enclose such vehicle.

E8. The penalty for violation of this Bylaw shall be not less than twenty-five dollars (\$25.00) for each offense. Each day that such violation continues shall constitute a separate offense.

E9. No person shall operate a recreational motor vehicle within the limits of any park, playground or other public property except with the written consent of the Board of Selectmen, nor on any private property except with the written consent of the owner or legal occupant thereof. The penalty for violation of this Bylaw shall be a fine of not more than fifty dollars (\$50.00).

E10. Registration of Ownership of a Building used for Multi Family Occupancy

The owner of any house or building, or part thereof, which is rented, leased, let or hired out to be occupied or is occupied or is intended, arranged or designed to be occupied as the home or residence of more than two (2) families living independently of each other and having a common right in halls, stairways, yard, cellar, sinks, water closets or privies, or any of them, and every lessee of the whole or of two (2) or more tenements in any such house or building shall annually during the month of April file in the office of the Town Clerk a notice containing his name and address, and also a description of the property, by street number or otherwise, as the case may be, in such manner as will enable the Board of Health and building inspector easily to find the same; and also the number of apartments in each house, the number of rooms in each apartment, the number of families occupying the apartments. The notice shall contain the name and address of some agent for the house, for the purpose of receiving service of process, and notice to and service of process upon each agent shall bind the principal.

E11. Fire Lanes

a. The Fire Chief may designate Fire lanes within the limits of any private way, parking area, or driveway for the access of fire apparatus to multiple family dwellings, stores, schools and places of public assembly. To the extent feasible fire lanes shall not be located in any area used for parking spaces before May 13, 1974. After May 13, 1974, no parking spaces required by the Zoning Bylaw shall be located in any area designated as a Fire Lane.

b. The owner of record of any area designated as a Fire Lane shall provide and install signs that shall read "FIRE LANES - NO PARKING - TOW ZONE". The size, materials and location of such signs shall be approved by the Fire Chief.

c. It shall be unlawful to obstruct or block any area designed as a Fire Lane with a vehicle or by any other means.

d. Any vehicle parked or left unattended within a designated Fire Lane may be removed or towed under the direction of a Police Officer at the owner's expense.

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

E11. Fire Lanes continued

e. Any person violating section (b) shall, for each offense, be punished by a fine of fifty dollars (\$50.00). Each day that such violation continues shall be a separate offense.

f. Any person violating section (c) or section (d) shall, for each offense, be punished by a fine of ten dollars (\$10.00).

E12. through E 21. Regulations and Licensing Solicitors and Canvassers

E12. License Required

It shall be unlawful for any solicitor or canvasser as defined in this Bylaw to engage in such business within the Town of Acton without first obtaining a license therefore in compliance with the provisions of this Bylaw. The provisions of this Bylaw shall not apply to any person engaged in the soliciting for charitable, benevolent, fraternal, religious or political activities, nor to any person exempted under Chapter 101 of the General Laws, nor to any person duly licensed under Chapter 101 of the General Laws, nor to any person exempted by any other General Law, nor shall this Bylaw be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

E13. Definition

A solicitor or canvasser is defined as any person who, for himself, or for another person, firm or corporation, travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or to take orders for retail sale of goods, wares, merchandise, or services, including, without limitation, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

E14. Applications

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:

- a. Name of applicant.*
 - b. Address of applicant (local and permanent address).*
 - c. Applicant's height, weight, eye and hair color.*
 - d. Applicant's Social Security Number.*
 - e. The length of time for which the right to do business is desired.*
 - f. A brief description of the nature of the business and the goods to be sold.*
 - g. The name and home office address of the applicant's employer, if self-employed, it shall so state.*
 - h. A photograph of the applicant which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner.*
 - i. If operating a motor vehicle, the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.*
- At the time of filing the application, each applicant shall pay a fee of \$10.00.*

E15. Investigation and Issuance

1. Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation to determine from prior business practices he/she is a suitable person to be licensed.

2. After such investigation the Chief of Police shall endorse on such application his approval or disapproval. If disapproved, the applicant shall have the right of appeal to the Board of Selectmen.

3. Such license when issued shall contain the signature of the Chief of Police or the Board of Selectmen and shall show the name, address, and photograph of said licensee, the date of issuance, and the length of time the same shall be operative, as well as the license number. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the Police Department, by wearing said badge on an outer garment. Each licensee is required to possess an individual license.

E16. Expiration of License

Each license issued under the provision of this Bylaw shall be enforced for a period not exceeding sixty (60) days, unless sooner revoked.

E17. Renewal of License

A license issued under the provisions of this Bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material as required by the Chief of Police.

E18. Transfer or Revocation of License

No license shall be transferred. The Chief of Police may revoke a license for any violation of this Bylaw.

E19. Misrepresentation

1. No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapter 93, 93A and 255D of the General Laws.

2. No solicitor or canvasser, licensed or exempted for license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office, or other establishment with the purpose of making sale of consumer goods or services.

E20. Duty of Police to Enforce

The Police Officers of the Town of Acton shall enforce this Bylaw.

E21. Penalty

Any person violating any provision of this Bylaw shall, upon conviction thereof, be punished by a fine not to exceed fifty dollars (\$50.00) for each and every offense. Each day on which a person solicits without a license shall constitute a separate offense.

E22. through E25. Dog Licenses/Animal Control Bylaw

E22. No person shall own or keep a dog, six months or older, within the Town unless a license for such dog is obtained from the Town Clerk. The license period is the time frame between January 1st and the following December 31st, inclusive. The fee for such a license will be determined by the Board of Selectmen in a public meeting.

E23. Any person who is the owner or keeper of a dog in the Town of Acton and who fails to license said dog within the time required by Chapter 140, Section 137 and 137A of the General Laws shall be subject to a penalty of twenty-five dollars (\$25.00) to be collected as provided by law.

E24. No person owning or keeping any animal in the Town of Acton shall permit the animal to go at large to the injury or nuisance of others. In addition, a dog should not go outside the boundaries of the property of its owner or keeper unless under the complete and effective control of said owner or keeper by means of a leash or otherwise.

E25. Owners or keepers of animals in violation of the foregoing section shall be subject to fines which shall be determined by the Board of Selectmen. "

E26. through E34. Use of Tobacco and Smoking Products

E26. Authority

The Town of Acton acting under Chapter 40, Section 21, adopts the following bylaw to protect the public health of the Town.

E27. Findings and Purpose

There exists substantial evidence that tobacco smoke causes cancer, heart disease and various lung disorders. Evidence also indicates that the harmful effects of tobacco smoke are not confined to smokers, but also cause discomfort and in some cases grave illness to non-smokers. Therefore on the recommendation of the Board of Health, the Town of Acton acts in order to

(E27. Findings and Purpose Con't)

prevent or minimize the potentially harmful effects of tobacco smoke in the general public and in the interest of and for the preservation of the public health.

E28. Definitions

Nonsmoking Area: Any contiguous segregated area that is designated and posted by the proprietor or person in charge as a place where smoking is prohibited.

Public area: An enclosed, indoor area when open to and used by the general public, including but not limited to the following facilities: auditoriums, licensed child care locations, schools, public libraries, municipal buildings, museums, theaters, retail stores, retail food establishments, indoor sports arenas, public transit facilities, enclosed shopping malls, hotel and motel lobbies, stairwells, hallways, entrance ways, public rest rooms, elevators accessible to the public, common areas in privately owned buildings, and any clubs, rooms or halls when used for public meetings.

Restaurant: A food establishment as defined by Article X of Massachusetts State Sanitary Code.

Smoking: The lighting of any cigar, cigarette, pipe or other tobacco product, or having the possession of any burning cigar, cigarette, pipe or other tobacco product.

Tobacco: Cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or tobacco in any of its forms.

Workplace: A workplace is any area within a structure or portion thereof at which (1) or more employees perform services for their employer including but not limited to private offices, individual workstations, all common areas, employee lounges, rest rooms, conference rooms, hallways, stairways and entranceways. Work places in private residences and lounge/bar service areas in food service establishments meeting the requirements of paragraph E30 of this Bylaw, are excluded.

E29. Posting

A. Each person, firm, corporation, establishment or agency having control of premises upon which smoking is prohibited by this bylaw shall conspicuously display upon the premises an appropriate number of signs stating that smoking is prohibited.

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

E30. Smoking in Public Areas

A. Prohibition - Smoking of tobacco is prohibited in any public area. This prohibition is effective thirty (30) days after the effective date of this bylaw.

B. Restaurants -

1. *Effective on September 30, 1998, no less than 100% of the total seating capacity of a food service establishment shall be a nonsmoking area. This section shall supersede any and all previous regulations controlling the percentage of nonsmoking seats to be provided by establishments*

2. *This regulation shall also include the lounge/bar service areas in a food service establishment, unless ventilation is provided such that air from the area does not enter the restaurant portion of the establishment and the nonsmoking area (including any nonsmoking areas within the restaurant) remains at least 75% of the total seating capacity.*

3. *Each restaurant shall conspicuously post signs to indicate non-smoking areas and the areas where smoking is allowed.*

4. *The proprietor, manager or person in charge shall ensure that all patrons conform to the conditions of the bylaw.*

5. *All outdoor seating shall be exempt from the provisions of this bylaw.*

E31. Workplace

(A) *It shall be unlawful for any person to smoke in any workplace except in a specifically designated smoking area.*

(B) *Each employer operating a workplace in the Town of Acton may specifically designate a separate smoking area with Proper Ventilation. Proper Ventilation shall be designed so that air from the designated smoking area does not enter the remainder of the workplace. A designated smoking area is an enclosed, segregated area designated and posted by the proprietor, owner, landlord or their agent in which smoking is permitted. Said area shall not be an area where non-smokers must have access including private offices. The employer must ensure that comparable non-smoking areas of sufficient size and capacity are available to accommodate the needs of non-smoking employees. Areas designated as smoking and non-smoking must be conspicuously marked.*

(C) *Each employer operating a workplace in the Town of Acton shall establish and implement a written policy governing smoking in such workplace. All policies*

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

shall prohibit smoking near any air intake or air exchange areas. Employees must be notified of the policy or a copy of said policy must be posted in a location easily visible and accessible to all employees. Upon request, the employer shall provide its written policy governing smoking to the Board of Health.

(D) It shall be unlawful for any owner, landlord, proprietor or person having control of any workplace upon which smoking is prohibited by this bylaw to permit, or for his or her agent to permit a violation of this bylaw. Violations and penalties listed in E321 of this Bylaw shall apply.

(E) The requirements of this section shall be effective 90 days after approval by the Attorney General.

E32. Violations and Penalties

A. Violations to this bylaw may be enforced by the constable, Police Chief, Police Officer, Sanitarian or Health Officer of the Board of Health or other agent allowed by law.

B. All violations of this bylaw are subject to a fine of fifty (50) dollars per violation.

E33. Variances

A. The Board of Health may allow a variance of any provision of this bylaw with respect to any particular case or circumstance when in the opinion of the Board the enforcement thereof would cause a manifest injustice; provided however; the decision of the Board may be appealed in a court of competent jurisdiction. Any variance granted shall be in writing with a copy available to the public at all reasonable hours in the office of the Town Clerk and in the office of the Health Department.

E34. Severability

A. Each provision of this bylaw is construed as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid for any reason, the remainder of this bylaw shall continue in full force and effect.

CHAPTER E GENERAL PUBLIC REGULATIONS CONTINUED

E35. Peeping or Spying

Unless authorized by the owner or tenant no person, except an officer of the law in the performance of his duties, shall enter upon the premises of another person or upon any public property with the intent of peeping in a window of any home or other building or by spying in any manner upon any person.

Any person violating the provisions of this section may, upon conviction of such violation, be fined not more than twenty-five dollars (\$25.00) for each offense.

E36. Graffiti & Rubbish

No person shall make any indecent figure or write any indecent or obscene words upon any fence, building or structure in any public place, or upon any street, sidewalk or wall.

E37. Injurious Debris

No person shall throw in any manner in any public way in the Town, any article, substance, or material which may prove injurious in any respect to the hoofs of animals, or the rubber tires of automobiles for other vehicles.

E38. Street/Sidewalk Obstruction

No person shall place, or cause to be placed, in any of the public streets, or sidewalks in the Town, without the written license from the Selectmen, any material whatever, or any rubbish of any kind and suffer same to remain for twenty-four hours.

E39. Public Way Obstruction/Destruction

No person shall break or dig up the surface for any purpose whatever; set or place any fence, post, tree, or edgestone, or alter or change the position or direction of any fence, post, tree or edgestone; swing any door or gate; or change the grade or width in, upon, or over any public way without the written license of the Board of Selectmen, which shall prescribe the limitations or restrictions of such activity.

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

E40. Discharge of Water on Town Ways

No person shall be allowed to discharge in any manner from pipes or hoses from sump pumps, or subdrains from private property onto the public way, or onto public drains, without the written permission of the Board of Selectmen and Engineering Department, not including a temporary discharge which does not exceed 24 hours during any six (6) month period.

E41. Alcoholic Beverage on Town Common

No person shall, at any time, consume any alcoholic beverage on the Town Common.

E42. Alcohol in Public

No person shall drink or possess an unsealed container of any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws while in or upon any public way or any way which the public has a right of access, whether in or upon a vehicle, or on foot, or while in or upon any public place or public building or playground (except that the Board of Selectmen may, if they deem it appropriate, issue a special one-day liquor license for events at the Senior Center and NARA Park), or while in or upon a private parking lot, or a private way to which the public has access as invitees or licensees, or in or upon any private land or place without the written consent of the owner or authorized person in control thereof. A police officer may arrest without a warrant any person who commits a violation of this Bylaw in his presence and may seize the alcoholic beverages, which shall be kept by him and destroyed upon adjudication or returned to the person entitled to lawful possession.

E43. Night Hour Bylaw

1. No store or place of business engaged in the retail sale of food shall, except as hereinafter provided, be open for the transaction of business between the hours of 12:00 midnight and 6:00 A.M.

2. The term food used in this bylaw shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide)

CHAPTER E *GENERAL PUBLIC REGULATIONS* CONTINUED

(E43. Night Hour Bylaw Continued)

3. This Bylaw shall not apply to the sale of food or alcoholic beverages when such sale is by a common victualler or innholder, licensed under Chapter 140 of the General Laws, primarily engaged in the sale of food to be consumed on the premises where sold.

4. In cases where, in their opinion, the public good requires it, the Board of Selectmen may issue a special permit allowing a store or place of business

engaged in the retail sale of food to remain open for the transaction of such business to an hour, specified in the permit, later than 12:00 midnight or to remain open 24 hours a day. Such special permits shall remain in effect for a period of one (1) year.

5. Violators of this Bylaw shall be subject to a fine of \$200.00 for each violation. In case of continuing violation, every calendar day upon which a store shall remain open in violation of this Bylaw shall be deemed a separate offense.

6. This bylaw shall not apply to any store or place of business engaged in the retail sale of food which was on March 17, 1988 regularly and customarily open for the transaction of business between the hours of 12:00 midnight and 6:00 A.M. Such exemption to existing business shall lapse and be of no further force and effect should any such businesses at anytime fail to operate between the hours of 12:00 midnight and 6:00 A.M. for four (4) consecutive weeks.

E44. Fire and Police Alarms

No person shall install, maintain or use any alarm system or other equipment designed to summon the Acton Police Department or the Acton Fire Department that is automatically keyed to or directly or indirectly activates the telephone numbers or lines controlled by or listed to the Police Department or Fire Department without a permit issued by the Acton Chief of Police or the Acton Fire Chief, respectively, or his designee, pursuant to rules and regulations adopted by the Board of Selectmen. Said rules and regulations may impose fines for their violation. The Police Chief or Fire Chief or his designee shall be empowered to enforce said rules and regulations and may use the alternative method pursuant to Section 21D of Chapter 40 of the Massachusetts General Laws. All such alarm systems or other equipment designed to summon the Acton Police Department or the Acton Fire Department shall be removed or an appropriate permit obtained within 60 days of the effective date of this bylaw.

E45. Non-Criminal Disposition

Any bylaw of the Town of Acton or regulation of any town officer, board or department, the violation of which is subject to a specific penalty, may, in the discretion of the town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws. Enforcing person as used in this bylaw shall mean any regular police officer with respect to any offense; the Building Commissioner, Health Director, Fire Chief, or Deputy Chief, Conservation Administrator, DPW Director, Highway Superintendent, Engineering Administrator, and any such other official as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one (1) official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Without intending to limit the generality of the foregoing, it is the intention of this bylaw that the following bylaws, rules and regulations are to be included within the scope of this bylaw and that the specific penalties as listed here shall apply in such cases.

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

(E45. Non-Criminal Disposition - Continued)

Rules and Regulations of the Acton Board of Health - enforcing person - Health Director - \$10.00 per offense per day.

Chapter E - Sections E1- Street Numbering Bylaw; enforcing person - Chief and Deputy Chief, Fire Department - Fine \$10.00.

Chapter E - Sections E2, 3 - Discharge of Firearms Bylaw - enforcing person - regular police officer - Fine \$25.00.

Chapter E - Sections E6, 7, 8, 9 - Unregistered Motor Vehicles Bylaw - enforcing person - regular police officer - Fine \$25.00.

Chapter E - Sections E11, - Fire Lanes Bylaw - enforcing person, Chief and Deputy Chief, Fire Department - Fine \$50.00.

Chapter E - Sections E12, 13, 14, 15, 16, 17, 18, 19, 20, 21 - Regulations and Licensing Solicitors and Canvassers Bylaw; enforcing person - regular police officer - Fine \$50.00.

Chapter E - Sections E22, 23, 24, 25 - Dog Licenses/Animal Control Bylaw; enforcing person - Dog Officer - Fine \$25.00.

Chapter E - Sections E26, 27, 28, 29, 30, 31, 32, 33, - Use of Tobacco Products; enforcing person - Constable, Regular Police Officer, Sanitarian, Health Director - Fine \$100.00 first offense, \$200.00 second offense, \$300.00 each subsequent offense.

Chapter E - Section 34 - DELETED

Chapter E - Sections E35, 36, 37, 38, 39, 40, 41, 42 - Miscellaneous Prohibitions Bylaw; enforcing person - regular police officer - Fine \$25.00.

Chapter E - Section E43 - Night Hour Bylaw - Enforcing Person - Regular Police Officer - Fine \$50.00, each offense.

Chapter E - Section E44 - Police and Fire Alarms - Enforcing Persons - Chief of Police, Fire Chief or, Conservation Administrator - Fine \$50.00, each offense.

CHAPTER E **GENERAL PUBLIC REGULATIONS** CONTINUED

(E45. Non-Criminal Disposition - Continued)

Chapter E - Section E45 - Non-Criminal Disposition - Rules and Regulations of the Conservation Commission - Rules and Regulations of the Board of Selectmen relating to use of land under their jurisdiction - Rules and Regulations of the Tree Warden - Enforcing Persons - Municipal Properties Director, Conservation Administrator - Fine \$50.00, each offense.

Chapter E - Section E46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 - Sale of Tobacco Products - enforcing persons - Constable, Police Chief, Police Officer, Sanitarian, or Health Officer of the Board of Health - Fine \$100.00 first offense, \$200.00 second offense, \$300.00 each subsequent offense.

Chapter F - Sections F1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 - Wetland Protection Bylaw; enforcing persons - Conservation Administrator, Regular Police Officer - Fine \$300.00 each offense.

Chapter G - Sections G1, 2, 3, 4, 5, 6 - Earth Removal Bylaw of the Town of Acton; enforcing person - Building Commissioner - Fine \$50.00 first offense; \$100.00 second offense; \$200.00 each subsequent offense.

Chapter H - Disposal Bylaw; enforcing person - Highway Superintendent or Director of Public Works - Fine \$200.00. (CHAPTER H RESCINDED 4/6/92 - ART.12)

Chapter I - Hazardous Materials Control Bylaw; enforcing person - Fire Chief or Health Director - Fine \$50.00 first offense; \$100.00 second offense; \$200.00 each subsequent offense.

Chapter M - Zoning Bylaw; enforcing person - Building Commissioner - Fine \$25.00.

Chapter P - Local Historic District Bylaw; Enforcing Person - Building Commissioner - Fine \$25.00, each offense.

Specification for Regulating Constuction within Public Ways; enforcing person - Director of Public Works, Engineering Administrator - Fine \$50.00.

E46. through E56. Sale of Tobacco and Smoking Products

E46. Authority

The Town of Acton acting under M.G.L. Chapter 111, Section 31 and Chapter 40, Section 21, adopts the following bylaw to protect the public health of the Town.

E47. Findings and Purpose

There exists substantial evidence that tobacco smoke causes cancer, heart disease and various lung disorders. Evidence also indicates that the harmful effects of tobacco smoke are not confined to smokers, but also cause discomfort and in some cases grave illness to non-smokers. Therefore on the recommendation of the Board of Health, the Town of Acton acts in order to prevent or minimize the potentially harmful effects of tobacco smoke in the general public and in the interest of and for the preservation of the public health.

E48. Definitions:

Free Standing Display: A display, collection, or arrangement of tobacco products in a location accessible and open to the general public or customers, from which tobacco products are selected for sale, use or distribution.

Minor: A person less than eighteen (18) years of age.

Photographic Identification: An official photographic identification document issued by an instrumentality of Federal, State or Local Government; examples are a Massachusetts Drivers License, Alcoholic Beverage Control Commission Liquor license, or Passport.

Smoking: The lighting of any cigar, cigarette, pipe or other tobacco product, or having the possession of any burning cigar, cigarette, pipe or other tobacco product.

E48. Definitions Continued:

Tobacco: Cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or tobacco in any of its forms.

Tobacco Vending Machine: A device which dispenses tobacco products by self service or by remote control.

E49. Permits:

A. No person, firm, corporation, establishment, or agency shall sell or distribute tobacco for retail consumption within the Town of Acton without obtaining a Tobacco Sales Permit issued by the Acton Board of Health or its designee.

B. Any person, firm, corporation, establishment or agency currently selling tobacco within the Town of Acton shall file an application for a tobacco sales permit within sixty (60) days of the effective date of this bylaw, or shall cease tobacco sales within 120 days of the effective date of this bylaw.

C. The fee for an initial Tobacco Sales Permit shall be twenty-five (25) dollars. All such permits shall be renewed annually by January first at an annual renewal fee as established by the Board of Health.

D. Tobacco Sales Permits must be posted to the public in a conspicuous location.

E. The permit provisions of this bylaw are not applicable to tobacco vending machines licensed by the Commonwealth of Massachusetts.

E50. Prohibited Acts:

A. No person, firm, corporation, establishment, or agency shall sell or distribute tobacco products to a minor or permit the purchase of tobacco products by a minor from a vending machine.

B. No person, firm, corporation, establishment, or agency shall sell tobacco products to any person who is not obviously at least eighteen (18) years of age or is not already known to be at least eighteen (18) years of age unless photographic identification establishing their age has been presented as proof prior to any sale. Notes from parents or legal guardians are not acceptable for the sale of tobacco products to a minor.

E50. Prohibited Acts Continued:

C. No person, firm, corporation, establishment, or agency shall distribute tobacco free of charge by any method of distribution within the Town of Acton, except:

- 1. in conjunction with and as a part of the sale of an equal or greater quantity of the identical tobacco product, or*
- 2. in exchange for a coupon or voucher issued by a manufacturer or distributor of tobacco products.*

D. No person, firm, corporation, establishment, or agency shall construct or maintain displays of tobacco products, unless the display is located behind the counter and in plain view of the regular location of a person designated to supervise the display.

E51. Tobacco Vending Machines:

Six (6) months after the effective date of this bylaw, no person, firm, corporation, establishment, or agency, shall install or maintain a vending machine to distribute or sell tobacco products in the Town of Acton unless:

A. The vending machine is located in an area minors are currently excluded by law; or,

B. 1. The vending machine is equipped with an operational lock-out device approved by the Board of Health. Said device shall lock-out sales from the vending machine unless an employee manually releases the locking mechanism for a single sale. The release mechanism must not allow continuous operation of the vending machine and must not be accessible to customers. Vending machines shall be posted with a sign stating that the machine is equipped with a lock-out device and identify the person (s) to contact to purchase products from the machine, and

- 2. The vending machine is located within (10) feet and in plain view of the regular location of a person designated to supervise the purchase of tobacco from the vending machine.*

E52. Posting:

A. *In conformance with M.G.L. C. 230 sect 6, the posting and notice requirements of M.G.L. c. 270 sect 7 and Massachusetts Department of Public Health rules and regulations shall be applicable at all locations where tobacco products are sold or distributed.*

B. *Tobacco sales permits must be posted to the public in a conspicuous location.*

E53. Violations And Penalties:

A. *Violations to this bylaw may be enforced by the constable, Police Chief, Police Officer, Sanitarian or Health Officer of the Board of Health or other agent allowed by law.*

B. *Persons, firms, corporations, establishments or agencies selling or distributing tobacco products without a Tobacco Sales Permit shall be subject to fines of two hundred (200) dollars per day for each day sales are made without being in compliance with this bylaw.*

C. VIOLATIONS BY PERMIT HOLDERS:

1. *Violations of this bylaw by a permitted establishment shall be subject to a fine of \$100.00 for the first violation, \$200.00 for a second violation, and \$300.00 per violation for a third or subsequent violation.*
2. *Three (3) violations of this bylaw by a permitted establishment within a twelve (12) month period shall be cause for revocation of the Tobacco Sales Permit. Permits shall not be revoked without notice of violations and a hearing for revocation of permit. A public hearing will be held by the Board of Health within thirty (30) days after notice to the permittee. Revoked permits shall not be reinstated for twelve (12) months following the date of revocation, unless the Board of Health finds that the revocation causes a manifest injustice. Upon revocation of said permit the establishment shall remove all tobacco products from the sales area or any area accessible to the public.*

E53. Violations And Penalties Continued:

D. Compliance monitoring of this bylaw and its requirements may be enforced through periodic inspections of each Tobacco Sales Permit holder. Inspections may include the attempted purchase of tobacco products by minors under the supervision of an agent of an enforcing authority (e.g. Board of Health), such an inspection shall not be construed as "entrapment".

E. Violations of this bylaw by persons, firms, corporations, or establishments in control of tobacco vending machines shall be subject to a fine of \$100.00 for the first violation, \$200.00 for the second violation, and \$300.00 per violation for third or subsequent violations.

F. All other violations of this bylaw are subject to a fine of fifty (50) dollars per violation.

E54. Employee Training:

A. It shall be the obligation of the Tobacco Sales Permit holder to ensure that all employees engaged in the sale of tobacco are aware of the provisions of this bylaw.

E55. Variances:

A. The Board of Health may allow a variance of any provision of this bylaw with respect to any particular case or circumstance when in the opinion of the Board the enforcement thereof would cause a manifest injustice; provided however; the decision of the Board may be appealed in a court of competent jurisdiction. Any variance granted shall be in writing with a copy available to the public at all reasonable hours in the Office of the Town Clerk and in the office of the Health Department.

E56. Severability:

A. Each provision of this bylaw is construed as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid for any reason, the remainder of this bylaw shall continue in full force and effect.

CHAPTER F

ENVIRONMENTAL PROTECTION

WETLAND PROTECTION

F1 Purpose

The purpose of this Bylaw is to protect the wetlands, vernal pools, adjoining buffer zones, banks, lands subject to flooding and riverfront areas (collectively, "the resource areas") of the Town of Acton by controlling activities deemed to have a significant impact upon wetland interests. Said wetland interests include (but are not limited to) the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution prevention, fisheries, protection of endangered or threatened species, and wildlife habitat (collectively, the interests protected by this Bylaw.) The Town of Acton Wetlands Map shows the approximate location of most of the Town's wetlands and shall be used as a guide to wetland location.

F2 Provisions

No person shall remove, dredge, fill or alter any resource area except as provided in Section 4, without first filing a Determination of Applicability, or a written Notice of Intent under this Bylaw, and obtaining and complying with the terms of said Determination or with an Order of Conditions.

F3.1 Definitions

The term "person" as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasipublic corporation or body, or any other legal entity or its legal representatives, agents or assigns.

F3.2

The term "abutter" as used in this Bylaw shall include all property owners, determined by the most recent maps in the Assessors Office, that abut the land on which the proposed activity is to take place and such other persons as the Commission may determine.

(F3 Definitions Continued)**F3.3**

The term "activity" shall mean any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; any form of construction, reconstruction, or expansion of any building, structure, road or other way; or alteration or any changing of the physical, chemical, or biological characteristics of an area of land or water.

F3.4

The term "alter" as used in this Bylaw shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- (a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (b) Changing of drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life, including the cutting of trees, which may significantly impact the interests protected by this Bylaw;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;
- (i) Application of pesticides, herbicides, or fertilizers.

F3.5

"Buffer zone" shall mean that area of uplands within 100 feet horizontally outward from the boundary of a wetland, vernal pool (except as provided for in Section 3.14), bank, or land subject to flooding. (Note: there is no buffer zone associated with the riverfront area.)

F3.6

"Certificate of Compliance" shall mean a written determination by the Commission verifying that work has been completed in accordance with an Order of Conditions.

(F3 Definitions Continued)**F3.7**

"Commission" shall mean the Acton Conservation Commission, that body of members lawfully appointed pursuant to M.G.L. Chapter 40, Section 8c, for the purposes of administering and enforcing the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Town of Acton Wetland Protection Bylaw.

F3.8

"Determination Of Applicability" shall mean any review and written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the Bylaw. See also Section F5 of the Bylaw.

F3.9

"Dredge" shall mean to clean, deepen, widen or excavate, either temporarily or permanently.

F3.10

"Extension Permit" shall mean a written extension of time granted by the Conservation Commission once for a period of up to 3 (three) years, within which time authorized work shall be completed.

F3.11

"Fill" shall mean either of the following, whichever is applicable:

- (a) to deposit or place any material so as to raise in elevation, either temporarily or permanently;
- (b) anything that fills or is used to fill - especially earth or gravel used for filling a hole,

F3.12

"Notice of Intent" shall be a written notice filed by any person intending to alter, or in any way change, the physical or chemical properties of land subject to protection under the Bylaw.

F3.13

"Order of Conditions" shall mean the document issued by the Conservation Commission or the courts containing conditions which regulate or prohibit any activity subject to the Bylaw, which is to be recorded in the Registry of Deeds or Land Court.

(F3 Definitions Continued)**F3.14**

The term “vernal pool” as used in this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways that meets the certification criteria established in the Guidelines for Certification of Vernal Pool Habitat published by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The buffer zone for vernal pools shall extend 100 horizontal feet from the mean annual high-water line defining the depression.

F3.15

The term “wetland” as used in this Bylaw includes:

Vegetated wetlands are wet meadows, marshes, swamps and bogs where 50% or more of the vegetative community consists of wetland indicator plants as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00. When vegetation is not sufficient to determine the boundary of a wetland, characteristics of hydric soils or observations of flowing water, standing water or saturated soils may be used.

Any non-vegetated area such as a creek, brook, stream, river, pond, lake, lands under said waters, and certified and uncertified vernal pools as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00 and Section F3.14 of this Bylaw.

F3.16

“Bank” is the portion of the land surface that normally abuts and confines a water body such as a creek, brook, stream, river, pond or lake as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00. A bank may be partially or totally vegetated, or comprised of exposed soil, gravel or stone.

F3.17

“Lands subject to flooding” are areas of temporary or occasional flooding as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00. Bordering land subject to flooding is the estimated maximum lateral extent of floodwater that will theoretically result from the statistical 100-year frequency storm. Isolated land subject to flooding is an isolated depression or closed basin without an inlet or an outlet. It is an area that at least once a year confines standing water to a volume of at least ¼ acre-feet and to an average depth of at least six inches. Some isolated lands subject to flooding may be vernal pools.

(F3 Definitions Continued)**F3.18**

The term “resource area” shall mean any area subject to protection under this bylaw and include any bank, wetland, vernal pool, buffer zone, lands subject to flooding or riverfront area.

F3.19

The "Riverfront Area" is the area of land between a river's mean annual high water line and a parallel line measured horizontally 200 feet away. The riverfront area may include or overlap other resource areas or their buffer zones. A river is a flowing body of water that empties to any ocean, lake, pond or river and which flows throughout the year (except during drought conditions). Perennial streams are rivers; intermittent streams are not rivers. Determination of flow status shall be based on: field observations (witnessed by Conservation Commission or its authorized agent); USGS or other government maps; size of channel or bank; watershed size; stream order; streambed characteristics; local geology; biological community; and/or other appropriate evidence.

F4.1 Exemptions

No Notice of Intent hereunder need be filed in connection with an emergency project necessary for the protection of health or safety of the citizens of Acton to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. An emergency project shall mean any project certified to be an emergency by the Town of Acton Conservation Commission or its agents within 24 hours. In no case shall any removal, dredging, filling or altering commence prior to such emergency certification nor extend beyond the time necessary to abate the emergency.

F4.2

No Notice of Intent hereunder need be filed in connection with maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, or telecommunication services.

F4.3

No Notice of Intent need be filed in connection with normally accepted maintenance procedures on land in agricultural use. The term "land in agricultural use" shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Massachusetts General Laws, Ch. 61A ss. 1 & 2. Any proposed changes to land in agricultural use which may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

Chapter F *ENVIRONMENTAL PROTECTION*

Continued

F4.4 Septic Systems Meeting State Title V

No Notice of Intent need be filed for the replacement, repair, or installation of a residential septic system that meets the requirements of Title V of the State Environmental Code (310 CMR 15.00), that has received a permit from the Acton Board of Health, and that meets the setback requirements of this Bylaw. Any such septic system replacement, repair, or installation that may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

F4.5 Limited Projects

Notwithstanding the other provisions of this Bylaw, the Commission may issue an Order of Conditions for limited projects listed under Section 10.53(3) of the *Wetland Protection regulations promulgated under the Massachusetts Wetland Protection Act (310 CMR 10.53(3))*.

F4.6 Waivers

Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.

F5 Determination of Applicability

Any person may request the Conservation Commission to make a determination as to whether or not a proposed project in the wetland or "buffer zone" is significant to the interests protected by the Bylaw. This request for a Determination of Applicability shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative. A person delivering this request by hand shall be given a dated receipt. The Commission shall make such a determination within 21 days of the receipt of said request, and it shall notify the applicant by certified mail, of the results of the determination. If the Conservation Commission determines that the subject area is significant to the interests protected by this Bylaw, and said interests are not fully protected by the project as proposed, the Commission will require the applicant to file a Notice of Intent, or will attach such Orders of Conditions to ensure protection of the interests of this Bylaw. The Commission, or its agents, may, for the purpose of carrying out its duties under this Bylaw, request such plans or information as may be necessary for its evaluation, may

Chapter F

ENVIRONMENTAL PROTECTION

Continued

enter upon the subject land, and may make or require to be made such examination or survey as it deems necessary.

F5.1 Abbreviated Notice of Resource Area Delineation

Any person may request the Conservation Commission to make a determination as to the precise boundaries of a resource area, including the buffer zone. This request for Resource Area Delineation shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative. A person delivering this request by hand shall be given a dated receipt. Prior to issuing a Resource Delineation, the Conservation Commission shall hold a public hearing within 21 days of the filing. Notice of the time and place of such hearing shall be given by the Conservation Commission not less than five days prior to the public hearing, by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch. 131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a future date time certain, agreeable to both the Applicant and the Commission, and shall be posted not less than five (5) days prior to said continuation. The Resource Area Delineation shall be issued within 30 days after the public hearing and may be identical to any such delineation issued under the provisions of the Massachusetts Wetlands Protection Act (M.G. L. Ch. 131, s. 40).

F6.1 Filing Procedure for a Notice of Intent

The Notice of Intent shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative, and shall include plans and specifications as required of an applicant by the Commission. A person delivering this Notice by hand shall be given a dated receipt. This Notice shall also include a filing fee to be designated in the rules and regulations of the Commission payable to the Town of Acton. No filing fee is required when the Town of Acton files an application. These plans shall also show the location of the wetland boundaries and shall be at a scale of 1" = 40' or any such scale that adequately depicts the area. The applicant shall also notify the clerk of the Town of Acton by hand delivery or certified mail, that such plans have been submitted to the Conservation Commission. Provided that the Notice of Intent fulfills the requirements of this Bylaw and M.G.L. Ch. 131, s. 40, only one Notice of Intent need be submitted.

Chapter F ***ENVIRONMENTAL PROTECTION***

Continued

F6.2 Notification of Filing

Any person filing a Notice of Intent under this Bylaw shall also notify by certified mail all abutters and the owner of the subject property, if different from the applicant, of the filing of such Notice of Intent. Such Notice shall clearly identify the land on which the work is to be done and describe the general nature of the work. Notice shall include the date, place, and time of said public hearing, and where plans may be reviewed. A list of persons so notified and proof of such notification shall be filed with the Conservation Commission prior to the Public Hearing.

F6.3 Extension Permits

The Commission may extend an Order of Conditions once for a period of up to three years. Written requests for an Extension Permit shall be made not less than thirty calendar days prior to the expiration of said Order of Conditions.

The Commission may deny an Extension Permit under any of the following circumstances:

- (1) Where no activity has begun on the project, except where such failure is due to unavoidable delay such as appeals in obtaining other necessary permits.
- (2) Where new information not available at the time of the original permit filing has become available and indicates that the Order of Conditions is insufficient to protect the areas subject to protection.
- (3) Where activity is causing damage to areas subject to protection.
- (4) Where there has been activity in violation of the Order of Conditions.
- (5) Where an Extension Permit has been previously granted for the Order of Conditions.

F7.1 Public Hearing

Prior to issuing any Order of Conditions (Section 8.2) the Conservation Commission shall hold a public hearing within 21 days of the filing of said Notice of Intent. Notice of the time and place of such hearing shall be given by the Conservation Commission not less than five days prior to the public hearing, by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch. 131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a future date time certain, agreeable to both the Applicant and the Commission, and shall be posted not less than five (5) days prior to said continuation.

Chapter F ***ENVIRONMENTAL PROTECTION***

Continued

F7.2 Failure to Act

If the Conservation Commission has failed to hold a public hearing within the 21 day period as required, or if after holding such a hearing, has failed within 21 days from the date of the close of the public hearing to issue an Order of Conditions, an appeal may be made to the Board of Selectmen, who within ten days, shall instruct the Commission to act within a period not to exceed ten days. If, after this ten day period, no action has been taken by the Conservation Commission, the application shall be considered approved.

F8.1 Burden of Proof

The applicant shall bear the burden of proving that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission that the proposed work will not harm any of the interests protected by this Bylaw shall be sufficient cause for the Commission to deny the application or to grant a permit with an Order of Conditions, or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

F8.2 Order of Conditions

The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this Bylaw. In preparing the Order of Conditions the Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the municipality, resulting from past activities, permitted and exempt, and foreseeable future activities. Such Order of Conditions shall be in writing and may be subject to the same constraints and be identical to any such order issued by the Acton Conservation Commission under the provisions of M.G.L. Ch. 131, s. 40, or successor statutes, and shall be issued within 30 days after the public hearing. Such Order of Conditions will expire three years from the date of issuance, unless renewed prior to expiration. No proposed work governed by an Order of Conditions shall be undertaken until all permits, approvals, and variances required by local Bylaws have been obtained and all applicable appeal periods have expired. The final Order of Conditions issued under this Bylaw shall be recorded with the Registry of Deeds for the district in which the land is located. However, if said Order is identical to the final Order of Conditions issued under the provisions of M.G.L. Ch. 131, s. 40, only one Order of Conditions need be recorded. The Conservation Commission shall have the right to file the Order of Conditions with the Registry of Deeds should the applicant fail to do so within 60 days. If a wetlands

replication is required, the applicant will adhere to replication procedures established by the Commission or as set down in the Commission's Rules and Regulations.

F8.3 Setbacks for Activities

The following are the minimum distances (setbacks) of activity from the edge of wetlands or vernal pools. No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission. The increased setbacks adopted by vote of the 2003 Annual Town Meeting shall become effective 90 days from date of this Town Meeting vote or on July 7, 2003, whichever is later, and that each of the Bylaw's existing setbacks shall remain in effect unless and until said setback is so increased.

The setbacks shall be as follows:

- (1) 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (2) 50-foot buffer of undisturbed natural vegetation.
- (3) 75-foot setback to the edge of driveways, roadways, and structures.
- (4) 50-foot chemical-free area within which no pesticides, herbicides, or fertilizers shall be used.
- (5) 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.
- (6) 100-foot setback from the mean high water line of vernal pools.

When in the opinion of the Commission compliance with these setbacks will result in greater harm to the interests of this Bylaw than would waiver of the setbacks, the Commission is permitted to grant such waivers.

Pre-existing activities or structures not meeting the setbacks set forth above need not be discontinued or removed [but shall be deemed to be non-conforming]. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands or vernal pools than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of wetlands or vernal pools if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.

F8.4 Erosion and Sedimentation Control

Where activities are proposed within the buffer zone, erosion and sedimentation barriers and other erosion controls as necessary shall be installed between the area of activity and the wetlands or vernal pool to prevent the transport of sediment into wetlands or vernal pools. Similarly, erosion and sedimentation controls shall be installed when activities outside the buffer zone create a significant potential for transport of sediment into wetlands or vernal pools.

F8.5 Storage of Fill or Materials

If any fill is to be stored on site, it shall be stored outside of the buffer zone and/or it shall be surrounded by staked hay bales to prevent erosion and sedimentation.

There shall be no storage, disposal or burial of construction debris (for example, scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within the buffer zone without the express permission of the Commission in an Order of Conditions.

F9.1 Wetlands Replacement

Wetlands or vernal pools that are altered shall in all instances be replaced by replacement wetlands of similar character. Replacement wetlands shall include, at minimum, equal area as the altered wetlands or vernal pool in a hydrologically connected location to the unaltered remainder of the wetlands or vernal pool.

F9.2 Requirements for Wetlands Replacement

Projects involving the filling and/or permanent alteration of wetlands or vernal pools shall meet the following requirements:

- (1) The proposed replacement area design must be submitted to the Commission for approval as part of the Notice of Intent.
- (2) The replacement area must be shown to duplicate sufficiently the functions of the wetland proposed to be altered.
- (3) The replacement area shall be constructed, to the extent possible, immediately after alteration of the existing wetland and during the same growing season.
- (4) If after three growing seasons, the Commission determines that the replacement area has not satisfactorily developed into a wetland or vernal pool, the applicant or owner may be required to submit new plans to successfully replicate the original altered wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory replacement area has been completed.

Chapter F ***ENVIRONMENTAL PROTECTION***

Continued

F10 Denial

The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specification, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulatively adverse effects upon the wetland values protected by this bylaw; or where the Commission deems that no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

F11 Prior Violation

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of any order pursuant to this Bylaw, shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

F12 Bond

The Conservation Commission may require the posting of a bond with surety, running to the Town of Acton, and sufficient as to form and surety in the opinion of the Town Counsel, to secure the faithful and satisfactory performance of work required by any final Order of Conditions, in such sum and upon such conditions as the Commission may require. Other evidence of financial responsibility which is satisfactory to the Commission may be accepted in lieu of a bond. Notwithstanding the above, the amount of such bond shall not exceed either the estimated cost of the work required by the final Order of Conditions, or the estimated cost of the work required for the restoration of affected lands and properties if the work is not performed as required, whichever is greater.

Chapter F
Continued

ENVIRONMENTAL PROTECTION

F13 Rules and Regulations

After due notice and public hearing, the Commission may promulgate procedural rules and regulations to effectuate the purposes of this bylaw. However, failure to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

F14 Enforcement

Any person who violates any provision of this bylaw or of any condition of a permit issued pursuant to it may be subject to a fine of not more than \$300. Each day during which a violation continues may constitute a separate violation. This bylaw may be enforced pursuant to Mass. General Laws Chapter 40, Section 21D, by the Constable, Police Chief, Police Officer, Conservation Administrator, or other agent allowed by law. Upon request of the Commission, the Board of Selectmen or Town Counsel may take such other legal action as may be necessary to enforce this bylaw and permits pursuant to it. The following provides a schedule of fines for specific violations.

Alteration of a wetland or vernal pool without an Order of Conditions issued pursuant to this Bylaw - \$300

Work within the buffer zone without prior submittal of Request for Determination or Notice of Intent - \$200

Failure to provide sedimentation controls required by an Order of Conditions - \$200

Disposal of construction debris within the buffer zone - \$300

Failure to construct storm water or drainage structure according to plans - \$300

Removal of trees designated for protection - \$10 per inch of circumference

Storage of fill within the buffer zone - \$150

F15 Appeals

A decision of the Commission may be reviewed by the Superior Court in an action filed within 60 days thereof, in accordance with Massachusetts General Law 249, Section 4.

F16 Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

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CHAPTER G

EARTH REMOVAL

G1. *The removal of soil, loam, sand, or gravel from any land in the Town not in public use is prohibited unless authorized by permit from the Board of Appeals, organized under the Protective Zoning Bylaw, except under the following conditions:*

a. When such removal is at the site of, incidental to, and in connection with, the necessary excavation and grading of (1) a building and appurtenant driveways for which a permit has been granted by the Board of Selectmen or other licensing body, or (2) the construction of a street that has been approved by the Planning Board; the volume of loam so removed shall not exceed the volume of loam in that part of the site to be occupied by such buildings and appurtenant driveways or by the pavement of such street.

b. When such removal is in accordance with special permission from the Board of Appeals issued under the provisions of the Protective Zoning Bylaw as now in effect or as hereafter amended.

G2. *Application for a permit shall be filed with the Board of Appeals by the record owner of the land and shall be accompanied by a plan showing the location, boundaries, and area of the land involved and the portion thereof from which the applicant proposes to make such removal.*

G3. *The Board of Appeals shall fix a reasonable time for a public hearing on the application and shall give due notice thereof at the expense of the applicant, by publishing notice of the time, place and purpose of the hearing in a local newspaper, and by mailing a copy of said notice to the applicant and to the owners of all property deemed by said Board to be affected thereby, as they appear in the most recent local tax list.*

G4. *In granting a permit, the Board of Appeals shall impose limitations as to the time, and as to the extent of the permitted removal and such other appropriate conditions, limitations, and safeguards as the Board deems necessary for the protection of the neighborhood and of the public health, safety, convenience and welfare, and may condition the continuance of the permit upon compliance with the regulations of the Board of Appeals then in force or thereafter adopted. In its discretion the Board may require surety bond, cash, or other adequate security to insure compliance with the terms, conditions, and limitations of the permit. The concurring vote of all the members of the Board shall be necessary for the issuance of a permit.*

G5. *This bylaw shall be enforced by the Board of Selectmen or other licensing body.*

G6. *The penalty for violation of this Bylaw shall be as follows.*

*For the first offense.....\$ 50.00
For the second offense.....\$100.00
For each subsequent offense.....\$200.00*

CHAPTER H

DISPOSAL BYLAW

**THIS SECTION WAS RESCINDED ON APRIL 6, 1992,
ANNUAL TOWN MEETING - ART. 12**

H1. No refuse originating from outside the corporate limits of the Town of Acton shall be disposed of in the Town's refuse disposal facility. Violators of this Bylaw shall be subject to a fine not to exceed \$200.00. Each action of disposal of refuse shall constitute a separate violation under this Bylaw.

CHAPTER I

HAZARDOUS MATERIALS CONTROL BYLAW

1. AUTHORITY, PURPOSE AND DEFINITIONS

1.1 Authority

This Bylaw is adopted by the Town under its Home Rule Authority, its Police Powers to protect the public health safety and welfare and its authorization under Massachusetts General Laws, (MGL) Chapter (c) 40, section 21, MGL CHAPTER 111, section 31, and MGL, Chapter 148, sections 9 and 13.

1.2 Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the Town's existing and potential groundwater supply, groundwater recharge areas, surface waters, air quality and natural environment and to assure public health and safety through the proper management of hazardous materials and waste.

1.3 Definitions

The following terms shall be the following meanings in this Bylaw:

- 1.3.1** *"Abnormal Loss of Material or Waste" means a loss of greater than .05% of the material stored over a period of one calendar month, unless such limit is undetectable in which case the Board of Health shall set the limit.*
- 1.3.2** *"Biodegradable" means a product or material which decomposes at a significant rate into non-toxic materials by natural biological processes.*
- 1.3.3** *"CMR" means the Code of Massachusetts Regulations.*
- 1.3.4** *"Container" means any portable device in which hazardous materials or wastes are stored, transported, treated, disposed of or otherwise handled.*

CHAPTER I **HAZARDOUS MATERIALS CONTROL** CONTINUED

1.3 Definitions Continued

1.3.5 *"DEP" means the Department of Environmental Protection and/or its successors.*

1.3.6 *"Discharge" means the disposal, deposit, injection, dumping, spilling, leaking, escape, incineration or placing of any hazardous material or waste, into or on the land, water or air. Discharge includes, without limitation, leakage of such hazardous materials or wastes from containers, tanks or storage systems, or disposal of such materials or wastes into any sewage disposal systems, dry well, catch basin or landfill.*

1.3.7 *"Fire Chief" means the Fire Chief of the Town of Acton and shall include any designee of the Fire Chief.*

1.3.8 *"Hazardous Material or Waste" means any substance, including petroleum or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, genetic or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety, or welfare, to the groundwater resources, or to the natural environment. Any substance regulated under applicable Acton Board of Health regulations and under any State or Federal laws and regulations regulating hazardous, chemical, biological or waste materials, or any amendments thereof, shall be considered hazardous material or waste.*

1.3.9 *"Owners or Operators" means each and every person who alone or severally with others has legal title to any property on which is located any hazardous material or waste subject to this bylaw; or a tenant, licensee or person in possession, who has care, charge or control of any such property, in any capacity including without limitation agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or agent, trustee or a person appointed by a court of competent jurisdiction; or a mortgagee in possession of such property. Each and every such person is bound to comply with the provisions of this bylaw as if he were an owner.*

CHAPTER I HAZARDOUS MATERIALS CONTROL CONTINUED

1.3 Definitions Continued

1.3.10 A "Hazardous Material Generator" means any commercial enterprise, government agency, owner or operator who produces, prepares, imports or compounds hazardous material or waste by combining previously non-hazardous materials to create hazardous materials.

1.3.11 A "Hazardous Material User" means any commercial enterprise, government agency, owner or operator who utilizes hazardous materials or waste, for any purposes other than those specifically exempt from the requirements of this bylaw under section 2.2.

1.3.12 "Storage" means the holding of any hazardous materials or wastes for more than 24 hours.

1.3.13 "Storage System" means one or more tanks(s), and all connecting pipes, valves or other devices appurtenant thereto.

1.3.14 "Tanks" means any stationary device used to store or to contain an accumulation of hazardous materials or wastes.

1.3.15 "Underground Storage System" means a system in which any or part of any of the tanks, connecting pipes, valves or other devices are buried below the surface of the ground unless otherwise specified by the Board of Health.

2. PROHIBITIONS, DISCHARGE REPORTING AND REMEDIAL ACTIONS

2.1 Prohibitions

2.1.1 There shall be no discharge of hazardous materials or wastes within the Town of Acton through land, water, or air transmission without a permit for such action by an authorized agent of a federal or state agency or without a hearing from the Board of Health unless otherwise excepted or exempted under this bylaw.

2.1.2 There shall be no discharge of hazardous materials or wastes within the aquifer protection Zones 1,2,3, as delineated in the Section 4.3 of the Acton Zoning Bylaw, as printed on May 1, 1990 and subsequent amendments thereof, either through land, water or air transmission unless otherwise excepted or exempted under this bylaw.

CHAPTER I HAZARDOUS MATERIALS CONTROL CONTINUED

2.1 Prohibitions Continued

2.1.3 There shall be no new installations of underground storage tanks for hazardous materials or waste within the aquifer protection Zones 1 &

2 as delineated in the Section 4.3 of the Acton Zoning Bylaw, as printed on May 1, 1990 and subsequent amendments thereof; or within the flood plain, defined by the Federal Emergency Management Agency "Flood Insurance Study, Town of Acton" January 6, 1988, as amended; or within 500 feet of a surface water body, wetland or private well. Replacement of underground storage tanks for flammable materials that pre-exist this bylaw shall be allowed only after the Fire Chief or his designee determines that aboveground storage of the flammable and/or combustible material would create a fire and/or explosion hazard.

2.1.4 *No area within which hazardous materials or waste are used, stored or generated may contain a floor drain that leads to a storm drain or a septic system. Floor drains in such areas shall drain into containment vessels for removal by a DEP approved hazardous waste carrier. All other drains shall be permanently sealed off.*

2.1.5 *No residues or waste waters resulting from hazardous material or waste spill clean up procedures shall be disposed of into drains or other facilities leading to storm drains or septic systems or into the Acton Transfer Station. All such residues and waste waters shall be contained for removal by a DEP approved hauler.*

2.2 Exceptions

Applications of fertilizers, herbicides and pesticides used in accordance with applicable local, state and federal regulations shall be exempt from Section 2 of this bylaw, applications of deicing chemicals in conformance with the Massachusetts Snow and Ice Control Program, applications of swimming pool chemicals, and applications of water treatment chemicals by the Acton Water District. Storage of such chemicals, however, shall not be exempt from the appropriate storage requirements of Section 3 of this bylaw. This bylaw shall not apply to discharge of ordinary sanitary wastewater into a septic system installed in accordance with applicable State and local regulations or to ordinary uses of household or garden products used in accordance with applicable labeling instructions from state and federal law. Nothing in this bylaw prohibits the Board of Health from limiting or prohibiting the use of any such product by appropriate regulations.

CHAPTER I HAZARDOUS MATERIALS CONTROL CONTINUED

2.3 Reporting of Discharges

Owners or operators shall immediately report any discharge or abnormal loss of hazardous materials or waste and shall provide a reasonable estimate of the nature and quantity of the discharged hazardous materials or wastes and supply pertinent Material Safety Data Sheet's to the Fire Chief, the Health Director,

Civil Defense and Local Emergency Planning Committee and the appropriate office in the D.E.P. These reporting requirements are in addition to all State and Federal reporting requirements.

2.4 Remedial Actions Following Discharges

- 2.4.1** *Any discharge of hazardous material or waste shall be immediately contained and reported. Clean up activities of significant discharges shall be taken under the direction of the Fire Chief, Health Director and/or other applicable agency. Clean-up and proper disposal of any discharged or abnormally lost hazardous material or waste shall be the responsibility of the owner or operator, hazardous material generator, or user including cost of the cleanup and disposal.*
- 2.4.2** *Following the immediate assessment according to section 2.3 and containment of any hazardous material or waste discharge a detailed report on the spill, remedial procedure plan and a schedule for all ongoing clean up actions to be undertaken shall promptly be submitted to the Fire Chief and the Board of Health. Action shall not be taken unless the Fire Chief and Board of Health deem that the remedial procedure will not contribute to a fire, explosion and/or environmental hazard. A detailed report on the spill and a remedial plan shall be submitted to the Fire Chief.*
- 2.4.3** *Collection and disposal of contaminated material shall be conducted by a handler that is licensed by the DEP.*

3. Permits and Accounting for Hazardous Materials and Waste

3.1 Permits For Hazardous Materials and Waste

Any hazardous materials or waste generator or user of hazardous materials or waste which exceeds the thresholds in s. 3.1.1., including residential tanks as specified in s. 5.3.4, must obtain a permit from the Board of Health to store, use or generate hazardous materials or wastes. The permit shall be granted for one year, and may be renewed by the Health Director, unless there has been a substantial change in the quantity, type or method of storage, generation or use, or the Health Director concludes for any reason that reissuance of the permit should be reviewed by the Board. This permit shall be in addition to any license required in accordance with M.G.L. Ch. 148, s. 13 and/or any permit required in accordance with 527 CMR 14.00 or any other Fire Prevention Regulation.

3.1.1 *A permit must be obtained for hazardous materials and wastes when use, generation or storage are above the following thresholds:*

- 1) Small scale or large scale generator as defined in the Massachusetts Hazardous Waste Management Act, MGL Ch 21C, and the Federal Resource Conservation and Recovery Act 42 U.S.C., Section 6901 et seq or as defined in any subsequent amendments or new regulations; or generation in excess of 100 kg/mo of hazardous waste or materials, whichever is the smallest quantity.*
- 2) Any storage or use within a twenty-four hour period exceeding 25 gallons liquid volume or 25 pounds dry weight of any hazardous material or waste except for retail sale.*
- 3) Storage, use or generation of any quantity of any chemical on The List of Extremely Hazardous Materials, as published in the Federal Register Volume 52, Number 77, April 22, 1987, and any additional chemicals added subsequently.*
- 4) Storage of any hazardous materials or waste overnight in delivery trucks or tank trailers.*
- 5) Storage of more than 50 gallons or 50 pounds dry weight of any repackaged hazardous materials for retail sale.*

(3. Permits and Accounting for Hazardous Materials and Waste Continued)

3.2 Information Required For A Hazardous Materials and Waste Permit Application

The following information shall be supplied with the application for a permit:

- 3.2.1** *A list of the size, type, age and location of each container or tank. Evidence of the date of purchase and installation shall be included for existing storage systems, along with a plot plan showing the location of all containers, tanks, drains and piping on the property. In complex applications the Health Department and/or the Board of Health, may require a plot plan certified by a Professional Land Surveyor. Any changes in the information contained in the initial application, including any change in the use of the storage system, shall be reported immediately.*
- 3.2.2** *A list of daily amounts stored, used or generated and estimate of yearly throughput of all hazardous materials and waste to be used, stored or generated on the site, and copies of pertinent Material Safety Data Sheets.*
- 3.2.3** *Documentation stating that all information previously filed with the Board of Health is correct, or indicating a change in the status of the existing permit shall be submitted annually. A new permit shall be obtained within thirty days from the Board of Health whenever:*
 - a. there is any change in the type or method of generation, use or storage, or significant change in the quantity or composition of hazardous materials or wastes previously permitted.*
 - b. the method of storage, generation or use fails to comply with information previously submitted to the Board of Health.*
- 3.2.4** *The Board of Health may require additional information if it is necessary to adequately evaluate the application.*

CHAPTER I **HAZARDOUS MATERIALS CONTROL** CONTINUED

(3. Permits and Accounting for Hazardous Materials and Waste Continued)

3.3 Exceptions to Permit Requirement.

Permits shall not be required under this bylaw for the following:

- a) Septic Systems*
- b) Gasoline and diesel fuel stored in tanks mounted on a vehicle and used solely to fuel the same vehicle.*
- c) Hydraulic oil reservoir tanks on heavy vehicular equipment.*
- d) Use of domestic biodegradable cleaners for residential and business maintenance.*
- e) Residential oil tanks in place and in use prior to passage of this bylaw. New residential oil tanks require permits as noted in section 5.3.4 of this bylaw, provided that a permit has also been obtained from the Fire Chief.*

3.4 Hazardous Materials and Waste Permit Conditions

The Board of Health may impose conditions on any storage permit as necessary to serve the purposes of this bylaw or to protect the public health and environment.

3.5 Requirements for Approval of Hazardous Material and Waste Permits

3.5.1 *Hazardous materials and waste permits with the exception of residential home heating oil tanks, shall be granted by the Board of Health only if the following criteria are fulfilled:*

- a. The proposed storage, use or generation system shall provide adequate discharge prevention safeguards which are appropriate to the materials and wastes to be stored, used or generated and to the location of the storage, use or generation.*
- b. The proposed storage, use or generation system shall comply with all local, state and federal regulations.*
- c. The proposed storage, use or generation system shall not cause a threat to the public health and safety or to the environment.*
- d. The applicant has established a satisfactory hazardous materials and waste discharge contingency plan.*

CHAPTER I **HAZARDOUS MATERIALS CONTROL** CONTINUED

(3.5.1 Requirements for Approval of Hazardous Material and Waste Permits continued)

- e. *All hazardous materials or wastes to be stored above ground shall be stored in product tight containers on an impervious, chemical resistant surface, under cover and sheltered from the weather unless otherwise specified by the Board. The storage area shall be enclosed with a permanent dike of impervious construction providing a volume of at least 100% of the maximum volume of the largest single container or tank plus 10% of the total storage capacity. All outdoor storage areas shall be surrounded by a 5 foot fence, at a minimum, and shall be kept locked at all times when unattended.*
- f. *Hazardous Waste shall be held on the premises for removal by a licensed carrier in accordance with the Massachusetts Hazardous Waste Management Act, MGL Chapter 21C.*
- g. *Owners or Operators shall park delivery trucks or tank trailers only in designated overnight parking areas approved by the Board of Health and Fire Department. These parking areas must allow for detection and containment of discharge from the parked vehicles that are acceptable to the Board of Health and Fire Department.*

3.6 Inventory and Monitoring of Above Ground Storage Systems

All hazardous materials stored above ground, with the exception of residential home heating oil tanks, shall be monitored weekly unless more frequent monitoring is specified in the permit. Monitoring shall consist of a thorough visual inspection of the container(s) and tank(s) and stock(s) of materials as well as the dike area for deterioration, leakage or unaccounted for loss of materials.

3.7 Record Retention

Throughout the permit period, owners, users, generators, or operators shall keep copies of all Hazardous Waste Transport Manifests on-site, as required under the Resource Conservation and Recovery Act 42 U.S.C., Section 6901 et seq. and the Massachusetts Hazardous Waste Management Act MGL Chapter 21C, 315 CMR, Section 2.04. If a hazardous waste generator is exempt from the manifest requirements sufficient proof of a proper disposal method shall be maintained.

CHAPTER I **HAZARDOUS MATERIALS CONTROL** CONTINUED

4. Underground Storage of Flammable or Combustible Products and Hazardous Materials or Wastes

4.1 Underground Storage Requirements

- 4.1.1** Owners or operators storing flammable or combustible materials in underground storage systems shall obtain a permit from the Fire Chief in addition to the Hazardous Material Permit from the Board of Health required under Section 3. Owners and operators storing hazardous materials or wastes underground which are not flammable or combustible need only obtain a permit from the Board of Health under section 3.
- 4.1.2** Any discharge or abnormal loss of material from underground storage systems shall be reported to the Fire Chief, the Health Director and the appropriate office in the D.E.P. immediately upon detection.
- 4.1.3** Response procedures to any discharge or abnormal loss of material from underground storage system shall follow the requirements of 527 CMR Section 9.20 or 310 CMR s. 30.697, whichever is applicable. In the case of any hazardous material for which response procedures are not specified under state law, response procedures shall be those required for hazardous wastes under 310 CMR s. 30.697, unless otherwise specified by the Board of Health.
- 4.1.4** Prior to any change in the material stored in an underground tank, such change of material shall be approved by the Health Department and (in the case of flammable or combustible materials) by the Fire Chief. Confirmation by the tank manufacturer that such a change in material would be compatible with the tank type shall also be submitted, in writing, to the Board/Fire Chief.

4.2 Underground Tank Construction

- 4.2.1** All underground storage tanks shall be designed to minimize the risk of corrosion and leakage, and shall conform to all construction and installation requirements under applicable state and federal law. All new underground storage systems for hazardous materials or waste shall meet the standards for new underground hazardous waste tanks set forth in 310 CMR s. 30.693 and 30.694, unless otherwise specified by the Board of Health. Hazardous wastes or waste products that are flammable or combustible shall meet 527 CMR 9.

(4.2 Underground Tank Construction Continued)

4.2.2 All non-conforming tanks (except as provided in 5.3.3) shall be brought into conformance by January 1, 1999, or a tank age of 20 years, whichever comes first.

4.2.3 Installation procedures for all underground storage tanks shall conform to all requirements under applicable state law. Installation procedures for any underground tanks for any hazardous materials not covered by state regulations shall comply with the requirements in 310 CMR s. 30,693 for installation of tanks for underground storage of hazardous wastes, unless otherwise specified by the Board of Health.

4.2.4 The Board of Health may require the placement of monitoring wells around any underground storage tank located within any aquifer zone as delineated in Section 4.3.2 of the Groundwater Protection District section of the Acton Zoning Bylaw as printed on May 1, 1990.

5. Testing, Monitoring, and Removal Requirements for All Underground Storage Tanks

5.1 Underground Tank Testing

5.1.1 All underground tanks which do not conform to the requirements for new tank installations in section 4.2.1 shall be tested for tightness at the expense of the owner. Testing schedules, except as provided in 5.3.3, shall follow the requirements of 527 CMR Section 9.13 in the case of flammable or combustible materials. Tanks for other hazardous materials or waste shall be tested annually or more frequently if required by the Board of Health.

5.1.2 Test results for tanks storing flammable or combustible materials shall be submitted to the Fire Chief and the Health Department. Test results for tanks storing hazardous materials or wastes which are not flammable or combustible shall be submitted to the Health Department.

5.1.3 Prior to its transfer all underground storage tanks located on a property shall be tested for tightness at the expense of the owner. The results of such testing shall be submitted to the Fire Chief and to the Board of Health, and kept on file.

(5.1 Underground Tank Testing Continued)

5.1.4 *The Fire Chief or the Health Director may request to be present for any tank testing procedures.*

5.2 Inventory and Monitoring of Underground Storage Tanks

5.2.1 *Inventory and monitoring of underground tanks for storage of flammable and combustible materials shall conform to the requirements of 527 CMR s. 9.11 and 9.12. Inventory and monitoring of underground tanks for storage of other hazardous materials not covered by 527 CMR s. 9.11 and 9.12 shall conform to the requirements in 310 CMR s. 30.692, unless otherwise specified by the Board of Health.*

5.3 Underground Tank Removal

5.3.1 *Removal procedures for tanks for storage of flammable or combustible materials shall follow the requirements of 527 CMR 9.22 and 9.23 as well as 502 CMR 3.00.*

5.3.2 *Removal procedures for tanks for the storage of hazardous materials or waste which are not flammable or combustible shall conform to the procedure in 310 CMR s. 30.699 for removal of hazardous waste tanks unless otherwise specified by the Board of Health.*

5.3.3 *All residential underground storage tanks shall be removed at a tank age of 20 years, unless the structure of the tank is sound. Proof of soundness must consist of results of a tightness test which follows the requirements of 527 CMR Section 9.13 and must be provided annually to the Board and the Fire Chief beginning the twentieth (20th) year of the tank's life.*

5.3.4 *No underground residential home heating oil tanks shall be repaired and placed back in service. Any such tank which is in need of repair shall be removed and replaced by an above ground storage system. All replacements of residential home heating oil tanks shall require a permit under Section 3 of this bylaw, and are not excepted by paragraph 3.3 (e).*

5.3.5 *No underground storage system which has leaked shall be relined, repaired or continued in use. Tanks which have leaked or need repair shall be removed.*

5.4 Information required with Application for Underground Storage Permit

Applications for permits from either the Board of Health or the Fire Chief must include appropriate drawings showing the location of all tanks in relation to the aquifer protection zones delineated in section 4.3.2 of the Groundwater Protection District section of the Acton Zoning Bylaw as printed on May 1, 1990. The location of all tanks shall conform to all applicable legal requirements, including but not limited to the Groundwater Protection Bylaw and the Aquifer protection regulations and other regulations of the Board of Health.

6. Administration and Enforcement

6.1 Compliance with Hazardous Materials Permit Requirements

6.1.1 Owners or occupants of new premises shall obtain a hazardous materials permit from the Board of Health, licenses from the local licensing authority and permits from the Fire Chief prior to occupying the premises.

6.1.2 Existing Premises - Owners or occupants of existing premises shall obtain a hazardous materials permit by January 1, 1992, or upon any change in use or occupancy of the site, whichever comes first.

6.2 Cessation of A Permit

6.2.1 The holder of a hazardous materials and waste permit shall notify the Board of Health immediately, in writing, whenever the activities authorized under the permit cease on a permanent basis.

6.2.2 When an underground storage tank for the storage of flammable or combustible materials is taken out of service for more than six months, the fire chief shall require that the tank be removed in accordance with 527 CMR, Section 9.22 and 9.23. Any underground storage tank for the storage of other hazardous materials or wastes shall be removed in accordance with the procedures in 527 CMR s. 9.22 and 9.23 unless otherwise ordered by the Board of Health.

(6. Administration and Enforcement Continued)

6.3 Promulgation of Rules and Regulations

The Board of Health may from time to time pass regulations specifying categories of materials which are hazardous materials or wastes under the definition in s. 1.3.8 of this bylaw. The Board may adopt or amend rules and regulations consistent with the provisions of this bylaw. A copy of such rules shall be filed with the Town Clerk.

6.4 Fees

Fees necessary for the issuance and renewal of permits or licenses under this bylaw shall be set by the Board of Selectmen. Fees shall be due on the date of annual registration and collected by the permit or license granting authority. Failure to pay shall constitute a violation and shall subject the violator to the penalties of Section 6.7 of this bylaw.

6.5 Variance

A variance from time the terms of this bylaw may be granted by the permit granting authority after notice to abutters and a public hearing, if it is found that a variance would satisfy each of the following conditions:

- 1) consistency with the public health and environmental protection objectives of the Massachusetts General Laws and applicable federal, state and local regulations.*
- 2) consistency with the purpose and intent of this bylaw.*
- 3) prevention of an undue burden on the permit applicant, and*
- 4) equivalent protection as envisioned in section 1.2.*

6.6 Enforcement Access

The authority granting the permit of its designee may, upon reasonable notice to the occupant of the premises enter any premises for the purpose of investigating, sampling, or inspecting any record, condition, equipment, practice, or property relating to activities subject to this bylaw. The permit granting authority may enter any premises for the purpose of enforcing this bylaw.

(6. Administration and Enforcement Continued)

6.7 Penalty

Any person who violates any provision of this bylaw shall be punishable by a fine of not more than \$300.00, as allowed under MGL Chapter 40, Section 21. Each day during which a violation continues shall constitute a separate offense, and each condition of this bylaw violated shall constitute a separate offense. This penalty may be imposed by the Town of Acton Board of Selectman, or a designated officer having police powers pursuant to MGL. Chapter 40, Section 21D.

7.1 Severability

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

CHAPTER J

SCENIC ROAD BYLAW

To designate the following roads as scenic roads in accordance with the recommendation of the Planning Board under section 15C, Chapter 40 of the General Laws as amended by Chapter 67 of the Acts of 1973, which provides in part that any repair, maintenance, reconstruction, or paving work done with respect to any road designated as a scenic road shall not involve or include the cutting or removal of trees, or tearing down, or destruction of stone walls, or portions thereof, except with prior written consent of the Planning Board after a public hearing:

*(* Indicates the entire road has been selected)*

***J-1 Windsor Avenue** *from the southerly sideline of Massachusetts Avenue running approximately 2610 feet in a southerly direction to the northeasterly sideline of Central Street, this being the entire road.*

J-2 Arlington Street *from the northwest end of Hayward Road running approximately 7000 feet in a northeasterly direction to the southwesterly sideline of Newtown Road.*

***J-3 Bulette Road** *from the southwesterly sideline of Newtown Road running approximately 1100 feet in a southwesterly direction to the end, this being the entire road.*

J-4 Robbins Street *from the northerly sideline of Stow Street running approximately 2000 feet in a northwesterly direction to the end.*

J-5 Stow Street *from the northwesterly sideline of Liberty Street running approximately 3200 feet to the Stow Town Line.*

J-6 Liberty Street *from the westerly sideline of Martin Street running approximately 2750 feet in a westerly direction to the Stow Town Line.*

J-7 Martin Street *from the southeasterly sideline of Liberty Street running approximately 1000 feet in a southeasterly direction to the end.*

***J-8 High Street** *from the easterly sideline of Main Street running approximately 8600 feet to the northerly sideline of Powder Mill Road, this being the entire road.*

J-9 School Street from the northerly end of River Street running approximately 1650 feet in an easterly direction to the southerly end of Piper Road.

J-10 Piper Road from the northerly sideline of School Street running northerly approximately 2750 feet to the western end of Brucewood Road.

***J-11 Hayward Road** from the southeasterly sideline of Arlington Street approximately 6900 feet in a generally eastern direction to the western sideline of Main Street, this being the entire road.

***J-12 Coughlin Street** from the southeasterly sideline of Main Street running approximately 1200 feet in a southeasterly direction to the westerly sideline of Taylor Road, this being the entire road.

***J-13 Taylor Road** the entire road.

J-14 Minot Avenue from the easterly sideline of Taylor Road running approximately 2000 feet in a southeasterly direction to the northwesterly end of Forest Road.

***J-15 Forest Road** from the southeasterly sideline of Minot Avenue running approximately 2300 feet to the westerly sideline of Hosmer Street, this being the entire road.

***J-16 Newtown Road** from the Littleton Town Line running approximately 11,300 feet in a generally southeasterly direction to the northwesterly sideline of Main Street, this being the entire road.

***J-17 Concord Road** from the southeasterly sideline of Main Street running approximately 6400 feet in a generally southeasterly direction to the westerly sideline of Great Road, this being the entire road.

J-18 Pope Road from the northeasterly sideline of Great Road running approximately 12,250 feet in a northwesterly direction to the Concord Town Line, this being the entire road.

***J-19 Proctor Street** from the northwesterly sideline of Pope Road running approximately 850 feet in a northwesterly direction to the end, this being the entire road.

***J-20 Spring Hill Road** from the northeasterly sideline of Pope Road running approximately 1900 feet in a northeasterly direction to the end, this being the entire road.

***J-21 Esterbrook Road** from the easterly sideline of Great Road running approximately 3800 feet in a generally northeasterly direction to the southerly sideline of Strawberry Hill Road, this being the entire road.

***J-22 Strawberry Hill Road** from the easterly sideline of Great Road running approximately 6200 feet in a generally easterly direction to the Concord Town Line, this being the entire road.

***J-23 Brook Street** from the southeasterly sideline of Main Street running approximately 2200 feet in a generally easterly direction to the westerly sideline of Great Road, this being the entire road.

***J-24 Carlisle Road** from the easterly sideline of Main Street running approximately 3300 feet in a generally northeasterly direction to the Carlisle Town Line, this being the entire road in Acton.

***J-25 Fort Pond Road** from the northeasterly side of Newtown Road running approximately 2000 feet in a northeasterly direction to the Littleton Town Line, this being the entire road in Acton.

J-26 Nagog Hill Road from the northwesterly sideline of Main Street running approximately 9000 feet in a northwesterly direction to the Littleton Town Line.

***J-27 Simon Hapgood Lane** from the northeasterly sideline of Strawberry Hill Road running approximately 500 feet in a northerly direction to the end, this being the entire road.

***J-28 Hammond Street** from the northeast sideline of Newtown Road running approximately 3900 feet in an easterly direction to the westerly sideline of Nagog Hill Road, this being the entire road.

J-29 Minuteman Road from the southwesterly sideline of Newtown Road running approximately 1000 feet in a westerly direction to the end.

J-30 Central Street *from the southeasterly sideline of Hapgood's Crossing 1500 feet in a southeasterly direction.*

J-31 Quarry Road *the extension into the Town Forest.*

J-32 Isaac Davis Trail *beginning at the most westerly end of Minuteman Road thence southwesterly over land of the Town of Acton and the existing easement on land of James Progin (#8 John Swift Road - Lot 43A) to John Swift Road.*

J-33 Isaac Davis Trail *from Musket Drive to Hayward Road over the existing easement on land of Barbara Keizer (#4 Musket Drive - Lot 147).*

J-34 Isaac Davis Trail *(formerly known as Revolutionary Road) through Conant's Land, beginning at Main Street at a point southwesterly about 1175 feet from the intersection of the southerly line of Main Street and the southerly line of Brook Street; thence easterly to Great Road and being intended to be all parts of the old road, and said point at Great Road, being about 350 feet from the southerly side of Brook Street; said measurement being more or less.*

J-35 Pope Road *the entire length of Pope Road as a scenic road under G.L.,c. 40 s. 15C, by amending the vote of the 1974 Annual Town Meeting.*

J-36 Wheeler Lane *in its entirety.*

CHAPTER K

PERSONNEL BYLAW

Effective July, 1985:

K1.1 Establishment and Duties of Personnel Board

A. Composition - *The Selectmen will appoint a Personnel Board to be comprised of five (5) members and not more than three (3) alternates. Preferably three (3) of the regular members should have substantial experience in professional personnel management and/or industrial relations. Service on the Personnel Board is voluntary and without monetary compensation.*

B. Terms - *Each regular member shall be appointed for three (3) year over-lapping terms, except that in the first year of appointment, the Selectmen shall appoint one member for a term of one (1) year; two members for terms of two (2) years; and two members for terms of three (3) years. Thereafter, each member will be appointed for a full three (3) year term. The alternate members will also be appointed for a three (3) year term. The Board shall organize each year after appointment or re-appointment of a regular member, and it shall elect a chairman, vice chairman and clerk for the ensuing year.*

C. Quorum - *At any regular or special meeting of the Personnel Board, it shall be necessary for three (3) members to be present and voting. Should a regular member not be available for any meeting, an alternate member will participate as a voting member in the proceedings as designated by the Chairman.*

D. Responsibility - *The Personnel Board shall be responsible to:*

- 1. Provide advice and counsel to the Town Manager and the Board of Selectmen on personnel administration within the Town of Acton.*
- 2. Assist the Town Manager and Board of Selectmen in the development and execution of Town personnel policies and procedures.*
- 3. Serve as an advisory board to the Selectmen on any appeal from the decision of the Town Manager in personnel matters.*
- 4. Review the Personnel Administration Plan and recommend revisions to the Town Manager.*
- 5. Maintain liaison with School personnel official with the objective of establishing and maintaining compatibility of School and Town personnel policies and procedures.*

(K1.1 Establishment and Duties of Personnel Board Continued)

6. *Maintain liaison with the Trustees of the Acton Memorial Library to assure compatibility in personnel practices and consistency in salary administration between library employees and other Town of Acton employees.*

K1.2 Procedures

The Personnel Board will establish its internal organization and will establish the procedures which it will follow in carrying out its responsibilities.

1. *Minutes of all Personnel Board meetings will be kept and retained on file in the office of the Town Manager.*
2. *Notice of Personnel Board Meetings will be posted in the Town Hall in accordance with the provisions of the Open Town Meeting Law.*
3. *Logistical support for the Personnel Board will be the responsibility of the Town Manager.*

K2. Duties of the Board of Selectmen and Town Manager

K2.1 Statement of Responsibility and Accountability

The Board of Selectmen have the overriding responsibility for personnel administration in the Town and are accountable to the Town for their performance on that responsibility. Any changes to the Personnel Administration Plan that have a financial impact on the Town shall be subject to the approval of the Board of Selectmen. Day to day personnel management is the responsibility of the Town Manager who is accountable to the Board of Selectmen for his/her performance.

A. Town Manager's Responsibility - *The Town Manager shall be responsible for preparing and adopting a personnel administration plan. The Town Manager is responsible for the impartial and equitable administration of the Personnel Administration Plan. The actual operations involved in administering the plan may be delegated to such staff assistant or staff assistants within the office of the Town Manager as deemed practical, including the wage and salary, and classification schedules.*

(K2. Duties of the Board of Selectmen and Town Manager Continued)

B. Appointing Authority - The appointing authority for employees in the Town of Acton rests with the Town Manager except as otherwise provided in the Charter of the Town of Acton.

C. Personnel Administration Plan - The Town Manager, or designated representative shall review the Personnel Administration Plan at least once each calendar year and may promulgate and publish amendments to the Personnel Administration Plan.

K2.2 A. Employees Responsibility - It shall be part of the responsibility of each employee to be thoroughly acquainted with the material contained in the Town of Acton Personnel Administration Plan and any of its subsequent revisions.

K3. Classification Schedule**K3.1 Preparation and Maintenance of the Classification Schedule**

The Town Manager, as part of the Personnel Administration Plan, will prepare and maintain a position classification schedule based on the Factor Evaluation System (FES) developed by the Federal Office of Personnel Management. The plan will include a written definition for each position in the Town service which describes the duties, authority and responsibilities characteristic of positions properly included in the class. All positions judged to be essentially equal although not necessarily involving the same duties, but have the same level of difficulty, responsibilities and overall value, will be grouped together in a class, with a minimum rate of pay, a maximum rate of pay and three (3) intermediate steps in between, with the exception of the cemetery employees and except as otherwise grouped in separate schedules. No employee may be appointed to a position not included in the classification plan approved by the Town Manager.

K4. Wage and Salary Schedule

K4.1 *The Town Manager as part of the Personnel Administration Plan will prepare and administer the wage and salary schedule for town employees, subject to the appropriation of necessary funds by the Town. The Town Manager shall review all factors relevant to the maintenance of a sound compensation practices of public and private employers, the cost of living, and the ability of the Town to recruit and retain qualified personnel. The Town Manager will make revisions of the plan which are appropriate not only to accommodate such considerations but which are necessary because of the abolishment, modification or establishment of grades.*

K5. Other Personnel Rules and Policies

K5.1 *The Town Manager shall adopt and administer rules and policies governing hours of work, holiday and sick leave policies, fringe benefits and other matters relating to conditions of employment, compensation and benefits, and evaluation and conduct of Town employees, not inconsistent with statutes or the provisions of collective bargaining contracts.*

K6. Appointments

K6.1 **Equal Employment Opportunities** - *The Town of Acton has and will provide equal employment opportunities for all applicants. Every individual, regardless of race, creed, color, nationality, age, religion or sex, applying for employment in the Town will receive equal treatment. The Town's policy with respect to Equal Employment Opportunity is set forth in the Town of Acton Equal Employment Opportunity Affirmative Action Plan.*

K6.2 **Criteria for Selection** - *The recruitment, selection, and promotion of employees will be based solely on job-related skills, knowledge, experience, education, as well as prior demonstrated performance, attitude, and adaptability as they relevantly indicate probable success in the job being filled. Factors are weighted as determined by the Town Manager. Town Employees, when fully qualified for a position, will be given preference with respect to any vacancies.*

K6.3 Appointment

A. Method of Appointment - All vacancies shall be filled by permanent appointment, provisional appointment, emergency appointment, temporary appointment, promotion, transfer or demotion. Appointment to a vacancy in the classified service shall be recommended by the department head from the qualified candidates and submitted to the Town Manager or appropriate Library Board of Trustees for final appointment.

B. Final Approval - The Town Manager or appropriate Library Board of Trustees will have final approval regarding starting salary, employment, transfer or promotion of any individual taking into consideration the recommendations of the department head, policies of the Town of Acton and applicable state and federal laws. The Town Manager will notify the department head and the individual to be employed, promoted or transferred of the starting salary and starting date. In the case of transfer or promotion, the Town Manager will communicate with all affected departments in an attempt to determine a mutually compatible starting date and prepare the necessary forms.

K7. Employee Evaluation and Training

K7.1 Need for Evaluation System - The Town of Acton recognized the need for an operating employee evaluation system in order to (1) assure the granting of step increases based on merit, (2) fairly and accurately evaluate an employee's strength, weaknesses, and potential for growth, (3) encourage and guide the employee's development of special skills and work interests, and (4) provide a method for improving operational programs through employee input.

K7.2 Maintenance of the System - The Town Manager is responsible for the establishment of the employee evaluation and development system and for overseeing the program. Employee evaluation is the continuing day-to-day responsibility of the supervisors, who will prepare evaluation forms for their subordinates as scheduled below. The Town Manager's office will provide guidance to supervisors and will make revisions to the system as necessary.

K7.3 Training - It shall be the responsibility of the Town Manager to foster and promote employee training programs for improving the quality of personal services rendered to citizens and aiding employees to equip themselves for advancement in the service.

K8. Disciplinary Action and Appeals

K8.1 The Town Manager shall adopt and administer rules and regulations governing remedial and disciplinary actions for any violation of the provisions of the personnel plan or inefficiency or incompetence in the performance of an employee's duties. Such rules and regulations shall provide for the opportunity to resolve any disputes by agreement or negotiation between the employee and his or her immediate supervisor and shall provide a procedure for orderly appeals of all disciplinary actions or other grievances.

K8.2 Decisions of the Town Manager in regards to major adverse personnel actions, (such as lay off, suspension without pay, failure of promotion, demotion, or dismissal) may be appealed in writing by an employee to the Board of Selectmen within 15 days of the Town Manager's action. Upon receipt of any such appeal of an action by the Town Manager, the Board of Selectmen will normally refer the appeal to the Personnel Board and may, at the Board of Selectmen's discretion, either empower the Personnel Board to hear and finally decide the appeal or direct the Personnel Board to hear and report the facts and make its recommendations to the Board of Selectmen for that Board's final decision. In either case the employee's appeal shall be heard within 45 days and a decision rendered within 30 days of the close of the hearing.

CHAPTER L

HANDICAPPED PARKING BYLAW

L1. *No vehicle shall be parked in a space designated for use by disabled or handicapped persons except a vehicle bearing the license plates authorized by c. 90, s. 2, or bearing an Acton temporary handicapped permit, and no vehicle shall obstruct a curb ramp designated for use by a handicapped person.*

L2. *The penalty for violation of this bylaw shall be \$50.00.*

CHAPTER M

ZONING BYLAWS

** Under Separate Cover **

CHAPTER N

PROCEDURE FOR THE DEMOLITION OF HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT BUILDINGS

N1. Intent and Purpose

This bylaw is adopted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the town; to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them. To achieve these purposes the Acton Historical Commission (hereinafter the Commission) is empowered to advise the Building Commissioner with respect to the issuance of permits for demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided by this bylaw.

N2. Definitions

- 2.1 "Building".** - any combination of materials forming a shelter for persons, animals, or property.
- 2.2 "Demolition"** - any act of pulling down, destroying, removing, or razing a building or any portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.
- 2.3 "Significant Building"** - any building or portion thereof not within an Historic District but which:
- a. is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or*
 - b. is included in the Cultural Resources Inventory prepared by the Commission including those buildings listed for which complete surveys may be pending; or*
 - c. has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder provided that the owner of such a building and the Building Commissioner have been notified, in hand or by certified mail, within ten (10) days of such vote.*

SIGNIFICANT BUILDINGS

2.4 "Commission" - the Acton Historical Commission.

N3. Procedure

3.1 Upon receipt of an application for a demolition permit for a significant building the Building Commissioner shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time.

3.2 Within sixty-five (65) days upon receipt of the application from the Building Commissioner the Commission shall conduct a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing and also, within seven (7) days of said hearing, mail a copy of said notice to the applicant.

3.3 If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Commissioner within ten (10) days of such determination. Upon receipt of such notification, or after the expiration of fifteen (15) days from the date of the conduct of the hearing if he has not received notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

3.4 If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a preferably-preserved significant building.

3.5 Upon determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Commissioner, within twenty one (21) days of said hearing, and no demolition permit may be issued until at least six (6) months after the date of such determination by the Commission.

3.6 *Notwithstanding the preceding sentence, the Building Commissioner may issue a demolition permit for a preferably-preserved significant building at any time after receipt of written advice from the Commission to the effect that either:*

- (i) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or*
- (ii) the Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful.*

N4. Enforcement and Remedies

4.1 *The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.*

4.2 *No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of two (2) years after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.*

4.3 *Upon a determination by the Commission that a building is a preferably-preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of Section 4.2.*

**PROCEDURE FOR THE DEMOLITION OF
HISTORICALLY OR ARCHITECTURALLY
SIGNIFICANT BUILDINGS**

N5. Municipal Buildings

No provision of this bylaw shall apply to buildings owned or operated by the Town of Acton or the Acton Water District.

(This section was inserted at the Special Town Meeting of 11/28/90)

N6. Local Historic Districts

This Bylaw shall not apply to any proposed demolition of a building which is located within a Local Historic District established under the Local Historic District Bylaw, Chapter P of the Town of Acton Bylaws. The Historic District Commission established under the Local Historic District Bylaw shall have sole jurisdiction over any demolition proposals within a Local Historic District pursuant to all procedures, standards and the COMMISSION shall limit its review powers established under this Bylaw to the public way from which the review of the BUILDING or STRUCTURE is, in the opinion of the COMMISSION, most relevant to the integrity of the DISTRICT.

CHAPTER O

REVOCATION OR SUSPENSION OF LOCAL LICENSES

(a) The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish each department, board, commission or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such Party has not filed in good faith a pending application for an abatement of such tax or has a pending petition before the appellate tax board.

(b) The Licensing Authority shall deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the Party and the Tax Collector, as required by applicable provisions of law, and the Party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any Party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be issued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the Party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

**REVOCATION OR SUSPENSION
OF LOCAL LICENSES**

(c) Any Party shall be given an opportunity to enter into a payment agreement with the Tax Collector, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits granted under the General Laws of the Commonwealth of Massachusetts: Open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of Chapter eighty-five; sales of articles for charitable purposes; section thirty-three of chapter one hundred and one; children work permits; section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage license; section twenty-one E of chapter one hundred and forty; dog licenses; section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping licenses; section twelve of chapter one hundred and thirty-one; marriage licenses; section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits; section one hundred and eighty-one of chapter one hundred and forty.

CHAPTER P

LOCAL HISTORIC DISTRICT BYLAW

The Town of Acton hereby creates a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws, Chapter 40C, as amended.

P1. Purpose

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Acton, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the historically significant architecture existing in the Local Historic District(s) when this Bylaw was first adopted in 1990. This Bylaw does not seek to establish an architectural museum, but instead to inform concerning the historical process of architectural growth and adaptation to heighten a sense of educated pride in our heritage.

P2. Definitions

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

"Alteration" or "To Alter"	The act of the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.
"Building"	<i>A combination of materials forming a shelter for persons, animals or property.</i>
"Certificate"	<i>A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.</i>
"Commission"	<i>The Historic District Commission as established in this Bylaw.</i>
"Construction" or "To Construct"	<i>The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.</i>

"Display Area"	<i>The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.</i>
"District"	<i>The Local Historic District as established in this Bylaw consisting of one or more DISTRICT areas.</i>
"Exterior Architectural Feature"	<i>Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.</i>
"Person Aggrieved":	<i>The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; or an owner of property within 100 feet of said DISTRICT area and any charitable corporation in which one of its purposes is the preservation of historic structures or districts.</i>
"Signs"	<i>Any symbol, design or device used to identify or advertise any place of business, product, activity or person.</i>
"Structure"	<i>A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.</i>
"Substantially at Grade Level"	<i>Located at the existing or altered surface of the earth or pavement which does not/will not exceed one foot in height above the surface of the earth or pavement.</i>
"Temporary Structure or Building"	<i>A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year.</i>

P3. District

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this Bylaw.

P4. Commission

4.1 *The COMMISSION shall consist of seven (7) regular members appointed by the Board of Selectmen to staggered three (3) year terms, such that three members terms will expire in one year and two members terms will expire in the second and third year, and so forth.*

4.2 *The COMMISSION shall include among its regular or alternate members, if practical, an Acton property owner who resides in each of the three DISTRICT areas, one Acton resident chosen from two nominees put forward by the Board of Realtors covering Acton, one Acton resident chosen from two nominees put forward by the chapter of the American Institute of Architects covering Acton, and one Acton resident chosen from two nominees put forward by the Acton Historical Society. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Board of Selectmen may proceed to make appointments as it desires.*

4.3 *The Board of Selectmen may at its sole discretion, appoint up to a maximum of four (4) alternate members to the COMMISSION for three (3) year terms. The available alternate member(s) with the longest continuous length of service as an alternate may be substituted and vote on a one for one basis, in place of any regular member(s) who may be absent or has/have an actual or apparent conflict of interest, or in the case of a vacancy in the regular memberships.*

4.4 *Each member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.*

4.5 *Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.*

4.6 *A quorum is necessary for the COMMISSION to conduct a meeting. At least four (4) members of the COMMISSION (or Alternate Members with voting rights as to a matter(s) under consideration) must be present.*

P5. Commission Powers and Duties

5.1 *The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.*

5.2 *The COMMISSION, after public hearing, may by vote of two thirds (2/3rds) of its regular members (not to include alternate members) from time to time adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.*

5.3 *The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which will meet the requirements of the DISTRICT. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.*

5.4 *The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.*

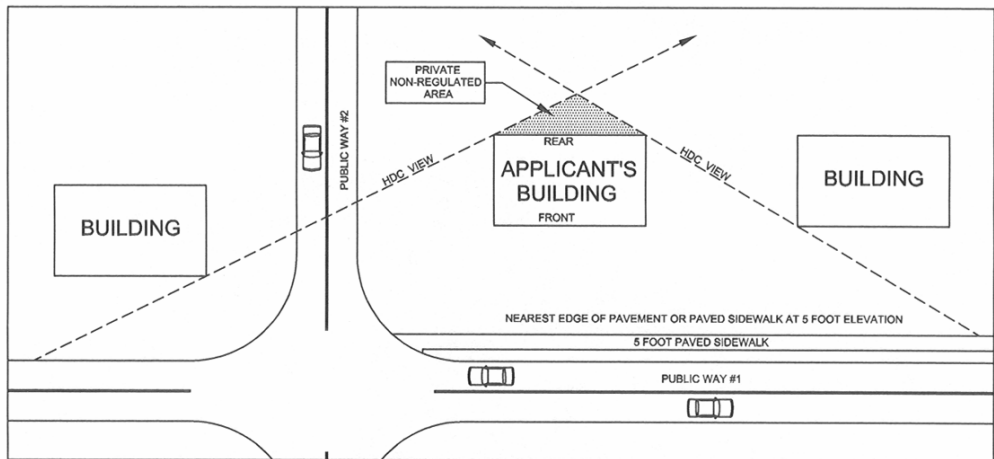
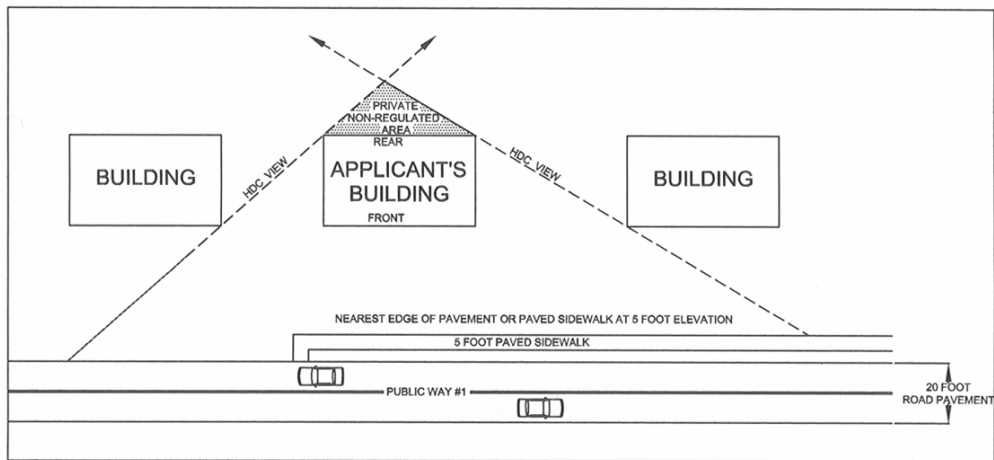
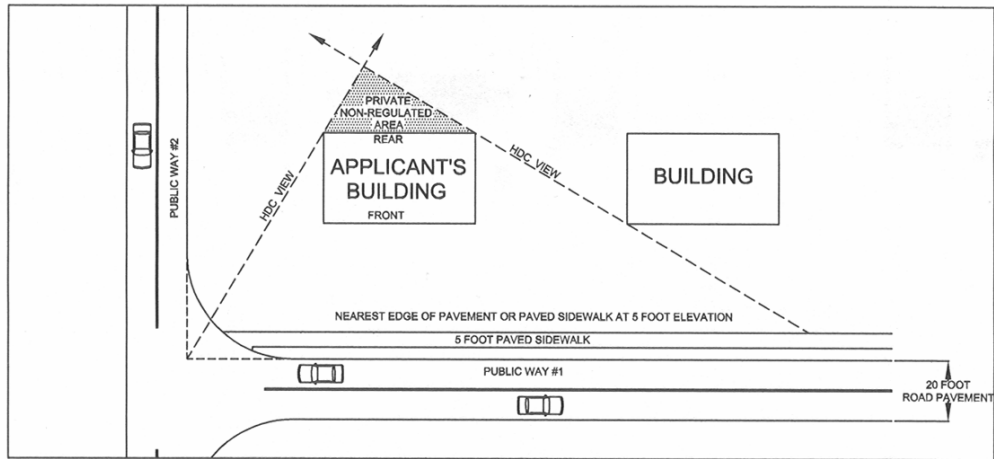
5.5 *The COMMISSION shall keep a permanent public record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.*

5.6 *The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.*

P6. Alterations and Construction Prohibited Without Certificate

6.1 *No BUILDING or STRUCTURE, or any part thereof, which is within a DISTRICT shall be CONSTRUCTED or ALTERED in any way which affects the EXTERIOR ARCHITECTURAL FEATURES visible to the unaided eye from any point at a five (5) foot elevation above the surface of the public way, on which the underlying lot or property has frontage, that is no closer to the*

BUILDING or STRUCTURE than the closest edge of pavement, or paved sidewalk if any unless the COMMISSION shall have first issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION, except as this Bylaw otherwise provides**6.1.1** *The following conceptual drawings are included to illustrate the review jurisdiction limitation set forth in paragraph 6.1 above: The viewing areas shown would be similarly applied to all buildings or structures on a property.*



6.2 *Where a lot containing such BUILDING or STRUCTURE has frontage on more than one public way, the COMMISSION shall limit its review powers established under this BYLAW to the public way from which the view of the BUILDING or STRUCTURE is, in the opinion of the COMMISSION, most relevant to the integrity of the DISTRICT. The COMMISSION may, with due notice to the owners of those properties affected, make advance determinations of and provide the Town Clerk a list of its determinations as to which public way views are generally most relevant to the integrity of the various existing BUILDINGS in each DISTRICT. In the event it is proposed to rely upon a different view than the relevant and previously listed view when considering any particular application or complaint as to any BUILDING, the burden is upon the COMMISSION, as part of its decision, to adequately document in writing the reasons therefore.*

6.3 *No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this Bylaw has been issued by the COMMISSION.*

P7. Procedures for Review of Applications

7.1 Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the Town Clerk and the COMMISSION an application for a CERTIFICATE of Appropriateness, or non-Applicability or of Hardship as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application. The date of the filing of an application shall be the date on which a copy of such application is received by the office of the Town Clerk.

7.2 The COMMISSION may appoint one or more of its members to initially and privately screen applications for CERTIFICATES to informally determine whether any application includes and/or is submitted with sufficient information upon which the COMMISSION may reasonably take its required actions. Within fourteen (14) days following the first filing of an application for a CERTIFICATE with the Town Clerk, the COMMISSION or its appointee/s may determine without need for a public hearing, that insufficient information has been provided, in

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

which case the application may be once returned to the submitting party, with written advice as to what was considered to be lacking, and the applicant will then thereafter be required to re-file the application before any further

COMMISSION action is required. Any second filing of essentially the same application must be formally acted upon by the COMMISSION as is otherwise provided in this Bylaw.

7.3 *The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.*

7.4 *If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Bylaw, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.*

7.5 *If the COMMISSION determines that such an application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.*

7.5.1 A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.

7.6 The COMMISSION shall grant a CERTIFICATE, or issue a written decision, within sixty (60) days from the date the pertinent application was filed (or re-filed in the event the application was once returned for lack of information), unless the applicant consents in writing to a specific enlargement of time by which such an issuance may occur. In the absence of any such enlargement of time, should an issuance not be forthcoming within the prescribed time, the applicant is entitled as of right to a CERTIFICATE of Hardship.

7.6.1 If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.

7.7 By the concurring vote of at least four members who were present throughout any relevant public hearing and the COMMISSION'S discussion leading up to its finding, the COMMISSION must adopt a specific written findings setting forth the basis on which it was initially determined that the application in question involved an EXTERIOR ARCHITECTURAL FEATURE subject to approval by the COMMISSION and may then:

- A. Grant an appropriate CERTIFICATE for the work to be performed, to remain effective regardless of any subsequent change in the ownership of the property; or
- B. Grant an appropriate CERTIFICATE for the work to be performed, to remain effective regardless of any subsequent change in the ownership of the property, with conditions and limitations requiring

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

- architectural or plan modifications as to those matters not excluded under Section P9 of this Bylaw which are within the COMMISSION'S review jurisdiction; or
- C. Deny the application with a written statement of the basis for the denial, at which time it may provide written recommendations for

changes not excluded from the jurisdiction of the COMMISSION by Section P9 of this Bylaw which, in a subsequent application, might be acceptable to the COMMISSION; or

- D. Deny the application with a fact specific written statement of the basis for the denial without further recommendations, if essentially the same application has previously been the subject of a prior denial accompanied by written recommendations pursuant to subparagraph 7.7C above.*

7.8 *Should the COMMISSION, during the course of reviewing an application, find that it does not have review jurisdiction under this Bylaw it shall make an appropriate finding of Non-Applicability.*

7.9 *Each CERTIFICATE or written decision upon an application by the COMMISSION shall be dated and signed by the Chairperson or such other person as the COMMISSION may designate and shall be deemed issued upon filing with the Town Clerk.*

7.10 *Each CERTIFICATE or written decision upon an application by the COMMISSION shall be promptly served on the applicant by the Town Clerk who shall promptly forward a copy thereof to the applicant at the address shown on the application, by first class mail, postage prepaid, and a copy shall be further provided to the Building Commissioner, Planning Board and Board of Selectmen.*

7.11 *Nothing contained in this bylaw shall be deemed to preclude any person contemplating construction or alteration of a BUILDING or STRUCTURE within a DISTRICT from consulting informally with the COMMISSION before submitting any application referred to in this bylaw on any matter which might possibly be within the scope of the Bylaw. Nothing contained in this bylaw shall be deemed to preclude the COMMISSION from offering informal advice to a potential applicant prior to receiving an application. However, any such preliminary advice offered by the COMMISSION shall not be deemed to set a precedent nor in any way limit the COMMISSION in the exercise of its functions under this bylaw.*

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

P8. Criteria for Determinations

8.1 *In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such*

EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

8.2 *In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportion of the BUILDINGS or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw, however, such requirements shall not further limit the maximum floor area ratio and height of a BUILDING as defined and permitted in the Acton Zoning Bylaw.*

8.3 *When ruling on applications for CERTIFICATES on solar energy systems as defined in Section 1A of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.*

8.4 *The COMMISSION shall not consider interior arrangements or architectural features not subject to public view.*

8.5 *The COMMISSION shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the DISTRICT.*

8.6 *The COMMISSION may impose requirements on the screening and location of above ground features of seepage systems. Such requirements shall not conflict with requirements of the Acton Board of Health.*

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

P9. Exclusions

9.1 *The COMMISSION'S review jurisdiction shall not include the following:*

9.1.1 *Temporary BUILDINGS, STRUCTURES, seasonal decorations or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.*

- 9.1.2** *Terraces, walks, patios, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is SUBSTANTIALLY AT GRADE LEVEL.*
- 9.1.3** *The number of the residents' personally owned or leased and regularly used motor vehicles which may be routinely parked within the boundaries of a residential property. However, in those circumstances and notwithstanding the provisions of Section 9.1.2, the COMMISSION shall retain limited review jurisdiction in regard to measures that would minimize the visual impact, as viewed from the public way, of any expansion of, or portions of, driveways or other STRUCTURES SUBSTANTIALLY AT GRADE LEVEL which are intended as parking spaces for more than four (4) motor vehicles.*
- 9.1.4** *Storm windows and doors, screen windows and doors, and window air conditioners.*
- 9.1.5** *The color of paint applied to the exterior surfaces of BUILDINGS or STRUCTURES.*
- 9.1.6** *The color of materials used on roofs.*
- 9.1.7** *Signs of not more than two (2) square feet in DISPLAY AREA in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.*

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

- 9.1.8** *The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm, or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.*
- 9.1.9** *The point of access served by handicapped access ramps designed solely for the purpose of facilitating ingress or egress of a physically handicapped person, as defined in M.G.L. c.22 s13A.*

- 9.1.10** Non-traditional material(s), providing that the difference between such material(s) and traditional material(s) cannot, upon review by the COMMISSION, be reasonably discerned by the unaided eye from the viewpoint(s) upon which the COMMISSION's power of review is based.
- 9.2** *Nothing in this Bylaw shall be construed to prevent the following;*
- 9.2.1** Ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof.
- 9.2.2** *Landscaping with plants, trees or shrubs.*
- 9.2.3** *The meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe, unhealthful or dangerous condition.*
- 9.2.4** *Any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this Bylaw.*
- 9.3** *Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.*

CHAPTER P **LOCAL HISTORIC DISTRICT** CONTINUED

P10. Categorical Approval

10.1 *The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Bylaw.*

P11. Enforcement and Penalties

11.1 No Building Permit shall be issued for the CONSTRUCTION or ALTERATION of any BUILDING or STRUCTURE wholly or partially in a DISTRICT unless a CERTIFICATE has first been issued by the COMMISSION when such a CERTIFICATE is required by this Bylaw.

11.2 No ALTERATION or CONSTRUCTION of any BUILDING or STRUCTURE wholly or partially in a DISTRICT for which a CERTIFICATE is required by this Bylaw shall deviate from the terms and conditions of such a CERTIFICATE.

11.3 The Building Commissioner of the Town of Acton shall enforce this Bylaw upon a determination by the COMMISSION that a violation exists, and subject to the approval of the Board of Selectmen, may institute proceedings in Superior Court pursuant to M.G.L. c.40C § 13 for injunctive or other relief and/or imposition of fines.

11.4 The COMMISSION, upon a written complaint challenging some enforcement action by the Building Commissioner, received by the Town Clerk within five (5) days following such decision, by a PERSON AGGRIEVED, or other citizen of or property owner in the Town of Acton, shall hold a timely public hearing to determine whether or not the Building Commissioner's action should be upheld, in whole or in part.

11.5 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of not less than \$10.00 nor more than \$500.00 for each offense under the provisions of M.G.L. c.40C § 13, or alternatively under #E45 of the Town of Acton Bylaws. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

CHAPTER P LOCAL HISTORIC DISTRICT CONTINUED

P12. Appeals

12.1 An appeal of a determination of the COMMISSION, except as to the propriety of a decision to invoke the provisions of M.G.L. c. 40C § 13 (institution of an action in Superior Court) by the Building Commissioner, may be taken by a PERSON AGGRIEVED by filing a written request with the Town Clerk, acting as an agent of the COMMISSION, within twenty (20) days of the issuance of a CERTIFICATE or a disapproval. In the event of such an appeal, the Acton Town Manager, or his delegate, shall make a timely request to the Metropolitan Area Planning Council that it promptly designate an arbitrator(s) with competence and experience in such matters to hear such an appeal. If such a person(s) is/are so

designated he/she/they must hear the appeal in a timely manner and issue a written decision within forty-five (45) days of the request as specified in M.G.L. c. 40C § 12. The arbitration decision shall be binding on the parties, unless a Complaint seeking a further appeal is filed in Superior Court within twenty (20) days from the filing of the arbitration decision with the Town Clerk, pursuant to M.G.L. c. 40C § 12A.

P.13. Validity and Separability

13.1 *The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.*

P14. Appendices

Appendix 1: South Acton District

The South Acton District shall be a DISTRICT area under this Bylaw. The location and boundaries of the South Acton District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 1 - 1990 which is a part of this bylaw. Sheet 1 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2: Acton Centre District

The Acton Centre District shall be a DISTRICT area under this Bylaw. The location and boundaries of the Acton Centre District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 2 - 1990 which is a part of this bylaw. Sheet 2 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 2.

CHAPTER P LOCAL HISTORIC DISTRICT CONTINUED

Appendix 3: West Acton District

The West Acton District shall be a DISTRICT area under this Bylaw. The location and boundaries of the West Acton District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 3 - 1990 which is a part of this Bylaw. Sheet 3 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 3.

CHAPTER Q

FINANCIAL CONDITION REPORTS

LOCAL SCHOOL COMMITTEE FINANCIAL CONDITION REPORTS TO THE FINANCE COMMITTEE

1.1 *The Board of Selectmen shall direct the Local School Committee, or its designee, to submit to the Finance Committee a quarterly financial report, due no later than 45 days from the end of the quarter, making the DEC. 31 report due Feb. 15, the March 31 report due May 15, the June 30 report containing all fiscal year end results due August 15, and the Sept. 30 report due Nov 15, and the report shall give an accounting of:*

1.1A *all Local School Committee revenue of whatever type, including but limited to tax revenue, receipts, fees, fines, etc., receipts of all revolving funds, enterprise funds, gifts, grants, trust funds, and entrepreneurial activities, and giving a comparison with projected revenue for the current fiscal year;*

1.1B *all Local School Committee expenditures of whatever type, including but not limited to expenses charged to: all items listed in the revenue accounting; tax receipts; fees, fines, etc. Paid to the town; all revolving funds; all enterprise funds; gifts and grants to the Local School Committee; all entrepreneurial activities, and giving a comparison with projected expenditure for the current fiscal year;*

1.1C *the current balance of each fund maintained by the Local School Committee, including but not limited to all general funds, all revolving funds, all enterprise funds, all gift funds, all grant funds, all entrepreneurial balances, and all trust funds; the beginning balance of each fund; and, the sources and uses of each fund.*

1.2 *The format of the Local School Committee FINANCIAL REPORT TO THE FINCOM shall: include a presentation reflecting the Local School Committee Object Budget, that is present spending by cost code; include a presentation reflecting the Local School Committee Departmental budget with all Departmental line items; substantially reflect all revolving, enterprise, and trust funds; substantially reflect all spending authorized the Local School Committee Warrant Article; give the fiscal year beginning balance and the current balance of each fund reported; and, provide a means to compare trends in revenue and spending over a time period of at least five years.*

1.3 *The Finance Committee shall make all reports received under this article available to the public.*

TOWN FINANCIAL CONDITION REPORTS TO THE FINANCE COMMITTEE

2.1 *The Board of Selectmen, or its designee, shall submit to the Finance Committee a quarterly financial report, due no later than 45 days from the end of the quarter, making the Dec. 31 report due Feb. 15, the March 31 report due May 15, the June 30 report containing all fiscal year end results due August 15, and the Sept. 30 report due Nov 15, and the report shall give an accounting of:*

2.1A *A all Town revenue of whatever type, including but not limited to tax revenue receipts, fees, fines, etc., receipts of all revolving funds, enterprise funds, gifts, grants, trust funds, and entrepreneurial activities, and giving a comparison with projected revenue for the current fiscal year;*

2.1B *all Town expenditures of whatever type, including but not limited to expenses charged to: all items listed in the revenue accounting; tax receipts; fees, fines, etc. paid to the town; all revolving funds; all enterprise funds; gifts and grants to the Town; all entrepreneurial activities, and giving a comparison with projected expenditure for the current fiscal year;*

2.1C *the current balance of each fund maintained by the Town, including but not limited to all general funds, all revolving funds, all enterprise funds, all gift funds, all grant funds, all entrepreneurial balances, and all trust funds; the beginning balance of each fund; and, the sources and uses of each fund.*

2.2 *The format of the TOWN FINANCIAL REPORT TO THE FINCOM shall: include a presentation reflecting the Town Object Budget, that is present spending by cost code; include a presentation reflecting the Town Departmental Budget with all Departmental line items; substantially reflect all revolving, enterprise, and trust funds; shall substantially reflect all spending authorized by Town Warrant Article; shall give the fiscal year beginning balance and the current balance of each fund reported; and, shall provide a means to compare trends in revenue and spending over a time period of a least five years.*

2.3 *The Finance Committee shall make all reports received under this article available to the public.*

CHAPTER R

Ground Water Cleanup Standards

1. Authority

This Bylaw is adopted by the Town of Acton under its Home Rule Authority pursuant to Article 89, Section 6 of the Amendments to the Massachusetts Constitution (the Home Rule Amendment), its police powers to protect the public health, safety, welfare, and its authorization under Massachusetts General Laws Chapter 40, Section 21, and its authority to plan for the prevention, control and abatement of water pollution under M.G.L. c. 21, § 27 (1).

2. Purpose

The purpose of this Bylaw is to protect, preserve, improve and maintain the Town of Acton's existing and potential public drinking water sources and to assure public health and safety through the application of stringent environmental ground water quality clean up standards which assure restoration of any contaminated water resources area covered by this Bylaw to a fully useable condition.

3. Recitations

- 3.1 The Town of Acton relies exclusively on groundwater sources within the Town as its sole source of public drinking water for residents, businesses and industries in the Town.
- 3.2 There have been a number of documented releases and threats of release within the Town of "oil" and "hazardous material" as those terms are defined under Massachusetts General Laws Chapter 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000 et.seq. (the "MCP").
- 3.3 Groundwater that serves as Acton's public water supply has been contaminated or threatened by various releases and threats of release within the Town of "oil" and "hazardous material".
- 3.4 Multiple contaminants in groundwater and/or multiple pathways of exposure to such contaminants has presented and continues to present extraordinary risks to Acton's present and future public drinking water supply sources.

4. Definitions

The following terms shall have the following meanings in this Bylaw:

- 4.1 "Contaminant" means any physical, chemical, biological or radiological substance or matter in water. See 42 U.S.C. § 300f(6). The term "Contaminant" includes, without limitation, any material or substance defined as "oil" or "hazardous material" under Massachusetts General Laws Chapter 21E or the Massachusetts Contingency Plan, 310 CMR 40.0000 et seq. (the "MCP").
- 4.2 "DEP" means the Department of Environmental Protection, its predecessors and/or its successors.
- 4.3 "Zone 1" shall be that area defined as "Zone 1 - The Wellhead Protection Area" by Section 4.3.2.1 of the Acton Zoning Bylaw's Groundwater Protection District Regulations.
- 4.4 "DEP Approved Wellhead Protection Area" means the protective radius around a public water supply well or wellhead which has been approved by DEP as show on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. In the event of a conflict between Section 4.3 and Section 4.4 hereof, the broader shall control.
- 4.5 "Zone 2" means that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). See 310 CMR 22.02. Zone 2 shall include (a) all areas in the Town of Acton defined as "Zone 2 - The Recharge Protection Area" by Section 4.3.2.2 of the Acton Zoning Bylaw's Groundwater Protection District regulations, and (b) all areas in the Town of Acton depicted as Zone 2 as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. In the event of a conflict between Section 4.5(a), Section 4.5(b) and/or Section 4.6 hereof, the broader shall control.
- 4.6 "IWPA" means the Interim Wellhead Protection Area, an area extending to a one-half mile radius from a public water supply wellhead with an approved pumping rate of 100,000 gallons per day or greater, that is intended to protect the wellhead pending the delineation of its Zone 2, as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. See 310 CMR 22.02.
- 4.7 "Fully useable condition" means that, with respect to any Resource Area covered by this Bylaw, Contaminant levels meet or surpass in cleanness on a permanent basis Groundwater Cleanup Standards established by this Bylaw throughout the Resource Area for each and every Contaminant.

CHAPTER R **GROUND WATER CLEANUP STANDARDS** CONTINUED

- 4.8 "Potentially productive aquifer(s)" means all aquifers within Acton delineated by the U.S. Geological Survey as a high or medium yield aquifer, as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. See 310 CMR 40.0006.
- 4.9 "Cleanup" means any response action, removal action or remedial action undertaken pursuant to any federal or state environmental law, rule, regulation, order or decree involving the clean up or removal of any contaminant from the environment, including, without limitation, from land, waters and/or groundwaters.
- 4.10 "Ground Water Cleanup Standards" means the groundwater quality standards adopted by the Town of Acton pursuant to this Bylaw and are as follows: (1) Maximum Contaminant Level Goals ("MCLGs") established under the Safe Drinking Water Act for each Contaminant for which an MCLG has been established, see 40 CFR § § 141.50 - 141.52. and (2) where an MCLG for a specific Contaminant is zero, or where an MCLG for a specific Contaminant has not been promulgated, 1 part per billion ("ppb") for any such volatile organic compound ("VOC") and 5ppb total for all such VOC's.
- 4.11 "Resource Area" means and includes each and all of the following areas in the Town of Acton:
- a. Zone 1 of all public water supply wells,
 - b. All DEP Approved Wellhead Protection Areas,
 - c. Zone 2 of all public water supply wells,
 - d. ALL IWPA's for a Public Water Supply, and
 - e. All Potentially Productive Aquifers.

5. Scope

Any Cleanup performed in the Town of Acton by a person potentially liable under Section 5(a) of General Laws Chapter 21E on, in, at, of or affecting any Resource Area(s) shall on a permanent basis meet or surpass in cleanness the Ground Water Clean Up Standards established by this Bylaw throughout the Resource Area for each and every Contaminant for which the Cleanup is or has been undertaken.

6. Application of Ground Water Cleanup Standards

All sampled locations throughout the Resource Area shall meet the Ground Water Clean Up Standards established by this Bylaw. No averaging of samples may be used to determine compliance with the Ground Water Cleanup Standards for any particular sampling point, Resource Area or any combination of Resource Areas. All Resource Areas which undergo a Cleanup must be restored to a fully useable condition.

7. Enforcement

The Board of Selectmen is authorized and empowered to enforce the provisions of this Bylaw. Pursuant to G.L. Chapter 40, Section 21, breach of this Bylaw shall be punishable by a penalty of three hundred dollars (\$300.00) for each offense. Each day during which a breach of this Bylaw continues shall constitute a separate offense. Without limitation, it shall constitute a breach of this Bylaw to discontinue for more than thirty (30) days or to abandon a Cleanup of a Resource Area without meeting the Groundwater Cleanup Standards of this Bylaw. Any breach of this Bylaw shall be deemed to cause irreparable harm to the Town of Acton and its citizens, residents, and persons employed in the Town, entitling the Town of Acton to all appropriate injunctive relief in addition to all other available remedies provided by law.

8. Variance From Groundwater Cleanup Standards

The Board of Selectmen shall have the power, after public hearing for which notice has been given by publication and posting , by mailing to the applicant, all abutters, all abutters to abutters, and the Acton Water District Commissioners, to grant upon petition with respect to a particular Cleanup a variance from the Groundwater Cleanup Standards of this Bylaw where the Board of Selectmen specifically finds that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. In determining whether to grant such a variance, the Board of Selectmen should consider the following:

- (i) the ability of the applicant to demonstrate that its contribution to a discharge, release, or disposal of the Contaminants at issue can be distinguished from the contribution of other parties;
- (ii) the amount and concentration of the contaminants involved;
- (iii) the degree of toxicity and the fate and transport of the contaminants involved;
- (iv) the degree of involvement by the applicant in the generation, transportation, treatment, storage, or disposal of the contaminants involved;
- (v) the degree of care exercised by the applicant with respect to the contaminants concerned, taking into account the characteristics of such contaminants;
- (vi) the degree of cooperation by the applicant with the Federal, State or local officials to prevent any harm to the public health, safety, welfare, or environment;
- (vii) alternatives proposed by the applicant to protect the public health, safety, welfare and the environment including, without limitation, any prospective contribution by the applicant to costs of treatment of the affected groundwater before its distribution within Acton's public water supply; and

- (viii) whether achievement of the Ground Water Cleanup Standards is technologically infeasible or not cost-effective based on the limits of best available technology, the marginal costs, the marginal benefits, and the risks to the public health, safety, welfare and the environment.

The Board of Selectmen may impose conditions, safeguards and limitations in such a variance to protect the public health, safety, welfare and the environment and to effectuate the purposes of this Bylaw.

9. Applicability

This Bylaw shall apply to any existing, ongoing or proposed Cleanup to the maximum extent permitted by law.

10. Severability

If any part of this Bylaw is adjudicated invalid, the remaining parts shall remain in full force and effect. If this Bylaw is adjudicated invalid or inapplicable in any area or zone, it shall remain valid and applicable to the maximum geographical extent possible.

CHAPTER S

Community Preservation Committee

Section 1. Establishment; appointment of members; membership; terms of office

1.1 There is hereby established, pursuant to the Community Preservation Act, a Community Preservation Committee ("Committee") consisting of nine (9) voting members. The composition of the Committee, the appointing authority and the terms of office for the Committee members shall be as follows:

One member of the Conservation Commission as designated by the Conservation Commission for a term of three years;

One member of the Historical Commission as designated by the Historical Commission for a term of three years;

One member of the Planning Board as designated by the Planning Board for an initial term of two years and thereafter a term of three years;

One member of the Recreation Commission as designated by the Recreation Commission for an initial term of two years and thereafter a term of three years;

One member of the Housing Authority as designated by the Housing Authority for a term of three years;

One member of the Board of Selectmen as designated by the Board of Selectmen for an initial term of one year and thereafter for a term of three years;

Three members to be appointed by the Board of Selectmen who are citizens of the Town of Acton, two members to be appointed for one year and thereafter for a term of three years, and one member to be appointed for two years and thereafter for a term of three years.

1.2 If a person designated by one of the boards, commissions, or authorities set forth above, no longer serves on the appointing authority, the appointing authority may appoint a new member to complete that term if the existing member no longer wishes to serve on the Committee. Otherwise, that member may complete his or her term on the Committee. If any of the commissions, boards or authorities listed in this section no longer be in existence for whatever

reason, the Board of Selectmen shall appoint a person with similar experience and responsibilities to serve in his or her place.

Section 2: Meetings; quorum; chairman

2.1 The Committee shall comply with the provisions of the Open Meeting Law (MGL c. 39 §23B). The Committee shall not meet or conduct business without the presence of a quorum, which shall be a majority of members of the Committee. The Committee shall approve its actions by a majority vote of the members present, except as otherwise required by law.

2.2 At the first meeting of each fiscal year, the Committee shall elect a chairperson and a clerk by a majority vote.

Section 3: Duties

3.1 The Committee shall study the needs, possibilities, resources, and preferences of the town regarding community preservation. The Committee shall consult with existing municipal boards, including, but not limited to, the Conservation Commission, Historical Commission, Historic District Commission, Planning Board, Recreation Commission, Housing Authority, Acton Community Housing Corporation, Finance Committee and Board of Selectmen in conducting such study. The Committee may consult with other town boards, committees, and commissions as it sees fit. The Committee shall hold at least one (1) public informational hearing each year on the needs, possibilities and resources of the town regarding community preservation for which it shall publicly post notice by the Town Clerk and publish such notice in a newspaper of general circulation in town for each of the two weeks preceding the hearing.

3.2 The Committee shall make recommendations in proper form to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition and preservation of historic resources; for the creation, preservation, and support of community housing, for the acquisition, creation, and preservation of land for recreational use; and for the rehabilitation or restoration of such open space, historic resources, land for recreational use, and community housing that is acquired or created with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 3 to 7. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

3.3 The Committee shall engage in public discussion of all proposed acquisitions prior to the Town Meeting at which such acquisitions will be considered.

3.4 In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space (not including land for active recreation purposes), historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs.

3.5 The Committee may recommend to Town Meeting that funds be set aside for later spending for specific purposes consistent with the Community Preservation Act, when sufficient revenues are not then available in the Community Preservation Fund, or for general purposes that are consistent with Community Preservation.

3.6 Recommendations to Town Meeting shall include the anticipated costs of the proposed appropriation consistent with the Community Preservation Act and a description of the project. In addition to approving appropriations from the Community Preservation Fund as recommended by the Committee, Town Meeting may approve such additional appropriations to meet the objectives of the Community Preservation Act as it deems appropriate.

3.7 The Committee may recommend to Town Meeting that it authorize the taking of the fee or any other interest in real property, in accordance with Chapter 79 of the Massachusetts General laws for any of the purposes of the Community Preservation Act.

3.8 The Committee shall keep a full and accurate account of all of its actions including its recommendations and the action taken on them, and records of all appropriations or expenditures made from the Community Preservation Fund. The records of the Committee shall be public records, to the full extent provided by law.

Section 4: Town Meeting, Legislative Body

4.1 All duties and responsibilities of the legislative body as set forth in the Community Preservation Act shall be vested in the Town of Acton's legislative body, Town Meeting.

4.2 In performing the duties and responsibilities of the legislative body as set forth in the Community Preservation Act, Town Meeting shall act pursuant to and in accordance with the requirements of the Community Preservation Act, the Town of Acton Charter and any applicable Town of Acton Bylaws, as from time to time amended.

4.3 Subject to and without limitation of the foregoing, in performing the duties and responsibilities of the legislative body as set forth in the Community Preservation Act, Town Meeting shall, in its sole and absolute discretion, have the power and authority to accept, reject, or modify, in whole or part, any recommendation of the Community Preservation Committee.

Section 5: Amendments

5.1 This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided that such amendments would not cause a conflict to occur with the Community Preservation Act.

Section 6: Severability

6.1 In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect

Section 7: Effective Date

7.1 This chapter shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL Chapter 40, §32 and Chapter 44B Section 3-7 inclusive have been met. Each appointing authority shall have 30 days after approval by the Attorney General and the town election whichever come later to make its appointments.